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ROYAL COMMISSION

ON

89

PILOTAGE

HEARINGS

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Ottawa, Ontario,
Monday,
October 19, 1964.

---On commencing at 10.00 a.m.

COMMISSIONER SMITH: Before we start I should make an announcement. Gentlemen, I am sorry to announce that his lordship is grounded at the airport in Quebec, and he will be here as soon as weather permits.

MR. JACQUES: Before we start with the brief of the Lake Superior Pilots Association, at the request of the Chairman of the Commission I should like to file in a bundle as Exhibit 1372 an exchange of correspondence between the Commission and the local supervisor of pilotage for British Columbia.

This exchange of correspondence relates to the monthly deductions made at source from the distribution of pilots' earnings. It refers to the indemnity paid by insurance companies when a pilot is either suspended or absent on sick leave.

You might recall that the evidence was to the effect that indemnities were paid to the pilotage fund whilst the pilot received the same benefits or approximately the same benefits as he was prior to being suspended or absent on sick leave.

This correspondence is dated from September 18, 1964, and September 23, 1964. It should, however, be filed on a semi-confidential basis because it refers in particular to accidents where pilots were involved and the mention of the names of the pilots.



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2 ---EXHIBIT NO. 1372: Exchange of correspondence
3 between the Commission and
4 local supervisor of pilotage
5 for British Columbia.

6 MR. JACQUES: I should also like to
7 file various statistics concerning Districts 1, 2 and
8 3 of the Great Lakes. They are for the complete
9 navigation seasons of 1961, 1962 and 1963, and they
10 are a breakdown of the number of vessels, number of
11 assignments, total hours piloted in designated waters,
12 total hours in undesignated waters, hours assigned,
13 detention charges, boat charges. District No. 1
14 will be Exhibit 1373; District No. 2 will be 1374,
15 and District No. 3 will be 1375.

16 ---EXHIBIT NO. 1373: Various statistics for
17 the navigation seasons
18 1961, 1962 and 1963
19 for District No. 1.

20 ---EXHIBIT NO. 1374: Various statistics for
21 the navigation seasons
22 1961, 1962 and 1963
23 for District No. 2.

24 ---EXHIBIT NO. 1375: Various statistics for
25 the navigation seasons
26 1961, 1962 and 1963
27 for District No. 3.

28 MR. JACQUES: Now, Mr. Commissioner,
29 I might ask the Lake Superior Pilots Association Inc.
30 to present their brief which might be filed as
Exhibit 1376.

---EXHIBIT NO. 1376: Brief of the Lake Superior
Pilots Association, Inc.

COMMISSIONER SMITH: I would just
like to say before the Lake Superior Pilots Associa-
tion gives any testimony here that they are very
welcome. Furthermore, that the evidence taken is



1
2 under oath. That has been the practice since we
3 started our investigation a couple of years ago,
4 and which I have reason to believe his lordship
5 will want to continue until the sessions are over.

6 However, it should be pointed out
7 that no witness here is compelled to take the stand
8 if he does not want to make any statement or give
9 any testimony; that is entirely up to his discretion.

10 Furthermore I think it should be
11 said that the courtesy of the American pilots has been
12 extended to the Canadian representatives who have
13 attended meetings over in the United States, which
14 is a very fine sign of cooperation between the two
15 elements of pilotage in the two nations. All
16 right, Mr. Lalonde.

17 CAPTAIN ANTHONY RICO, sworn

18 THE WITNESS: I wish to take this
19 opportunity, sir, to thank your honourable Commission
20 for the chance to appear here and try to be as
21 informative as I may be in offering some help to
22 your findings.

23 COMMISSIONER SMITH: You are very
24 welcome.

25 MR. LALONDE: Mr. Commissioner, I
26 will be acting today as counsel on this Commission
27 for the Lake Superior Pilots Association Inc. The
28 Association has been kind enough to answer the
29 wishes of the Commission to have further information
30 on how pilotage is operated on the American side
of the Great Lakes.

Representatives of the Association



1
2 have come forward in order to provide the Commis-
3 sion with whatever information the Commission
4 judged useful in connection with its work.

5 The Association has already
6 prepared a brief which has been filed as Exhibit
7 No. 1376, and I intend to summarily review with
8 two witnesses, Captain Rico, who is president of
9 the Lake Superior Pilots Association Inc. and Mr.
10 E. Kuefner, who is manager of the Association, who
11 will explain mainly the problems of despatch, allo-
12 cation of expenses, problem of relations at the
13 administrative level with the various governments,
14 while Captain Rico will deal mainly with pilotage
15 problems in general and some of the administrative
16 aspects.

DIRECT EXAMINATION BY MR. LALONDE:

17 Q. Now, Captain Rico, would you tell
18 us what your age is?

19 A. My age is forty-two.

20 Q. You are president of the Lake
21 Superior Pilots Association Inc., I understand?

22 A. Yes, I am.

23 Q. Since when have you been president
24 of that Association?

25 A. I was elected president in December
26 of 1963.

27 Q. Yes. Now, can you tell us since
28 when you have been a pilot in District No. 3 of
29 the Great Lakes?

30 A. Under the auspices of the government



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I became a pilot or government pilot May 1st, 1961.
Prior to that, in 1959 and 1960, we were an independent Association who formed a corporation in 1959.

4

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Q. You were a pilot since the beginning of the season of 1959 on the Great Lakes; is that correct?

6

7

A. Yes, sir, it is.

8

9

Q. Can you tell us what your previous maritime experience was, what are your certificates, and what you did before being a pilot?

10

11

A. I became an ordinary seaman on the Great Lakes in 1939, and received a licence in 1952, and I have been continuously employed in the maritime service since then. During World War II I sailed deep sea.

12

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14

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Q. Apart from this you were employed on the Great Lakes on lake ships?

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A. Yes, sir.

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Q. Could you summarily give us which companies you worked for and in what quality?

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A. Well, most of my experience was with the Columbia Transportation Company, and I sailed with these people as able seaman, and also in a licensed capacity.

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Q. What certificates do you have?

A. I have a master of any gross tons, and first class pilot for other lakes as far east as Cape Vincent.

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Q. Now, you have just said you started being a pilot in 1959 with a private organization. Can you tell us whether to your knowledge there were American pilots in your area -- that is the Lake



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Superior area and Lake Michigan area -- before 1959?

Were there some pilots in Chicago, for instance?

A. Yes, there was a group of men in Chicago who did offer their services as pilots. I believe they called themselves the Chicago pilots.

Q. They were operating as a private organization?

A. Yes, sir, to my knowledge they were.

Q. Now, would you tell us what happened in 1959 and how you were set up and how you did operate in 1959 and 1960?

A. With the advent of the larger ocean vessels coming into the Great Lakes, there was a need for pilotage throughout the lakes. May 5 was the first ship to arrive in Duluth.

I might qualify this: I live in Duluth, and in 1958 the company that I had worked for no longer was in business.

Q. Yes?

A. The Seaway and bigger ships put them out of business. So I didn't have a job in 1959, and I was approached by one of the agents to act as a harbour pilot in Duluth for shifts, being ocean ships, from one berth to another, and taking them into harbour and taking them out of harbour.

Duluth is quite a large harbour and has quite a few grain elevators and the people there had no conception where these places were, and they asked for my services.



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2 This was the forerunner of setting
3 up the Corporation -- this was in May -- the fore-
4 runner of setting up the Corporation in July of the
5 same year to encompass not only the harbours of
6 Duluth and Superior, but also included St. Mary's
7 River, and I might add Captain Matheson came
8 to Duluth and we explored the possibility of set-
9 ting up a pilotage pool in Fort William-Port
10 Arthur, to offer services there also with the use
11 of Canadian pilots.

12 Q. Yes. What happened? Did you set
13 up a pool in Duluth and St. Mary's River and Fort
14 William-Port Arthur?

15 A. We became known as the Lake
16 Superior Pilots Association, which is a stockholder
17 corporation, incorporated in Minnesota, and we
18 offered our services predominantly in Duluth
19 Superior Harbour and St. Mary's River. We accepted
20 assignments on contract with the Burries, Marks,
21 division of Louis Dreyfus Company servicing vessels
22 in Lake Michigan and Lake Huron areas also, but
23 we preferred not going too far down into this area
24 because there were other people who were available
25 for service down there.

26 COMMISSIONER SMITH: Excuse me
27 for interrupting, Mr. Lalonde. Is your organiza-
28 tion affiliated with any labour organization?

29 THE WITNESS: Yes, we are.

30 COMMISSIONER SMITH: Which one?

THE WITNESS: We are affiliated
with ILA Local 444.



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MR. LALONDE: I intend to cover this, sir.

Q. The Association which you set up in 1959 as the Lake Superior Pilots Association Inc., is it the same that is still in existence today?

A. Yes, it is.

Q. And you explained that this was a company with shareholders? It is not a non-profit company; it is an ordinary company under the Minnesota laws?

A. That is correct.

Q. This was set up you said in July, 1959?

A. July 8th, 1959.

Q. I understand bylaws were adopted at that time for that corporation?

A. Yes, they were.

MR. LALONDE: Mr. Commissioner, I do not have the charter itself, but I have the bylaws, and I will be pleased to file the bylaws. If the Commission feels that they would need to have the charter, a copy of the charter, we could obtain it later on.

COMMISSIONER SMITH: I would prefer to allow that question to stand until his lordship returns.

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Q. I am showing you a document entitled Bylaws of Lake Superior Pilots Association Inc., incorporated under the laws of Minnesota and attached to it a call for a meeting of July 31st, 1959. Could you tell me whether these are the bylaws of your Association?

A. Yes, they are.

Q. Could you tell me whether these bylaws are up to date?

A. They are currently up to date.

MR. LALONDE: Yes. I would like to file this document as Exhibit 1377.

---EXHIBIT NO. 1377: Bylaws of Lake Superior Pilot's Association Inc. and call for meeting of July 31st, 1959.

MR. LALONDE:

Q. Could you summarily explain how the Association works? That is, do you have a board of directors?

A. Yes, we have a board of directors -- five directors who are elected by the stockholders and each registered pilot in our district becomes a stockholder. Stock is offered to him and he becomes a shareholder.

Q. Do you divide the stocks on an equal basis between members or can you buy as much stock as you want?

A. The stocks at the present time are issued in two different manners, one as A stock which is the one voting share for each member pilot.

Q. Yes?



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A. Because of the fact that I am the only original stockholder left I happen to have more shares than the rest of the pilots but the value of the shares that I have is not as high as the value of the shares the other pilots have.

Q. Are they all common shares?

A. Yes.

Q. And you say the value of your shares is not as high; how come?

A. Well, I prefer to table that question and let Mr. Kuefner answer it.

Q. All right, Mr. Kuefner will answer that. You have a board of directors, you said. How many directors do you have?

A. Five members on the board.

Q. They are elected every year at annual meetings?

A. That is right.

Q. Do you have special committees?

A. Yes. We have an examining board committee, a navigation committee and an auditing committee.

Q. Could you tell us first of all what is the function of the auditing committee?

A. The auditing committee primarily . . . The books are always open to each individual pilot and whenever he feels that he would like to examine the books he is free to come in and look at them. But there are times when a pilot may arrive at night and he can discuss this with his auditing committee as somewhere down the line he will be meeting one of



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the people who come in and check the books every
month. He has a chance to discuss expenses and
problems of the Association.

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Q. I see, and how many members do you
have on that committee?

6

A. Three.

7

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Q. Are they appointed by the board of
directors?

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A. They are appointed by the president.

10

Q. What about the navigation committee?

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A. This is a committee composed of three
members who will take recommendations for aids and
rules and regulations for the body to review. In
some instances the committee will come to me and
make recommendations for navigational aids that
we pass on to the Ship Masters' Association and to the
Coast Guard.

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Q. What about the examining committee?

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A. The primary function of this com-
mittee is to screen and process new applicants and
to pass judgment on rules that have been broken by
individual pilots. The examining committee will
assess a fine or a penalty or exonerate any pilot
who may have committed some violation of the rules.
This committee is composed of five members.

23

24

Q. Are they appointed by the board of
directors or by the general meeting?

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A. To simplify this and to change it
every year this committee -- the board of directors
then becomes the examining board and the first vice-
president becomes the chairman of this committee.

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Q. We will come back to the details of this examining board later on.

A. Yes, sir.

Q. It will suffice as a general statement now. How many members were you in 1959 when you started?

A. When we started it was around nine members.

Q. How many members are you now?

A. The law that we are under now specifies thirteen American and three Canadian.

Q. Yes, and how many are members of the Association?

A. All the participants in the American side are members of the Corporation.

Q. So you have thirteen members who are of the American pilots in District 3; is that correct?

A. Right.

Q. Have all the pilots in your district been members of the Association?

A. Yes.

Q. All the time. Before the Great Lakes Pilotage Administration was established did the same apply -- that is, your nine members were all the pilots who operated in that area?

A. Not all of them became shareholders immediately but after a period of time. We do not take a member in as a shareholder until he has become a proven registered pilot. Some are still on their



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probationary period and others were just temporarily used.

Q. Could you tell us whether it would be possible for Canadian pilots to become members of your Association?

A. Shareholders?

Q. Yes, shareholders.

A. Yes, I believe there are provisions for this to come to pass.

Q. Did you have any requests from Canadian pilots to become shareholders?

A. We have discussed it. No, no specific request; no, I cannot say that.

Q. Did you have any request from the Canadian government that they should become shareholders or something of the sort?

A. To my knowledge, no. I would prefer . . .

Q. Mr. Kuefner would be more able to answer that? You stated that your Association had membership connection with the ILA?

A. Yes, sir.

Q. Is this on the basis of individual membership of members or is the Association itself a member of the ILA? How is it?

A. The individual members are members of the ILA.

Q. And they are all members of the ILA?

A. Yes, sir.

Q. Do you have a contract as an



1
2 association or as a corporation or company with the
3 ILA?

4 A. The Local 444, which is composed of
5 all the members of our Association, has a contract
6 with the Lake Superior Pilots' Association.

7 Q. I am showing you a photo copy of a
8 document entitled Labour Agreement between Lake
9 Superior Pilots Association Inc. and Upper Lakes
10 Pilots Association District No. 3, International Long-
11 shoremen's Association, AFL-CIO. Would you tell me
12 whether this document is the contract between your
13 Association and the ILA?

14 A. Yes, it is.

15 Q. This is a photostat and I notice we
16 see a certain number of signatures at the end. Could
17 you tell me whether these are all the signatures
18 appearing on the original?

19 A. All of those are the signatures
20 plus a few more that did not come out because the
21 machine does not take a carbon base.

22 Q. I see, so it should be fair to con-
23 clude that all your members have signed that agreement;
24 is that correct?

25 A. Yes. You will notice my signature
26 is not on there either. It did not come through
27 but I did sign.

28 COMMISSIONER SMITH: Mr. Lalonde, I
29 am not sure I understand that. Is it both group and
30 individual membership combined?

MR. LALONDE: The way I understand



1
2 it, my lord, is that the Association as a company is
3 considered as an employer of the pilots and its em-
4 ployees, who are the pilots, are members of the ILA.
5 Therefore the ILA passed a kind of an agreement, labour
6 agreement, with the Association, who is considered
7 the employer as to, for instance, a certain number of
8 questions like union security, check-off of membership
9 dues into the ILA, provision for arbitration in case
10 of dispute between the Association, the employer and
11 the employee -- that is an individual pilot.

12 Q. These are the two main provisions of
13 that contract; is that correct?

14 A. And seniority.

15 Q. What is the provision about seniority?

16 A. That it will be adhered to as to the
17 working rules.

18 Q. As to the working rules; that is, this
19 is not spelled out specifically in the labour agreement
20 except that there is a clause entitled Article III,
21 Call of Pilots, which says:

22 "No change shall be made in the
23 working rules of March 25th, 1964,
24 as amended without the consent of
25 the union."

26 A. That is correct.

27 Q. And under these working rules you had
28 seniority as far as roster assignments are concerned?

29 A. Yes.

30 Q. We will come to this specific pro-
vision in the working rules themselves. What I stated,



1 is it a fair summary of the relations between the
2 ILA and the Association and the members themselves?
3 Is that the way it is ---

4 A. Yes. The pilots in the Lake
5 Superior Pilots Association are volunteer members of
6 the Lake Superior Pilots Association. That is,
7 each member voluntarily belongs to the Association.
8 There is no provision in the law that states that
9 you must belong. You can still be a pilot and not
10 be a member of the Lake Superior Pilots Association
11 within the meaning of the law. But as far as the
12 union is concerned each individual member belongs
13 to this union and through this union he finds his
14 security.

14 MR. LALONDE: I would like to file
15 this document as Exhibit 1378.

16 ---EXHIBIT NO. 1378: Labour Agreement between
17 Lake Superior Pilots Association Inc. and Upper
18 Lakes Pilots Association
District No. 3.

19 MR. LALONDE:

20 Q. Since when are your pilots members of
21 the ILA?

22 A. 1959.

23 Q. Right from the start?

24 A. Yes, sir.

25 Q. What main changes were brought about
26 by the establishment of the Great Lakes Pilotage
27 Administration Act in 1961 comparative to the operation in 1959 and 1960?

28 A. Specifically it enlarged our district.

29

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3 Q. How did it enlarge it? Can you
4 explain that ?

5 A. Well . . .

6 Q. I am showing you Exhibit 1016, which
7 is a general chart of the Great Lakes. If you wish
8 you can refer in your evidence to that chart and
9 explain what extensions took place?

10 A. In 1959 and 1960 we were primarily
11 concerned with the passages of ships from Detour to
12 Gros Cap reef light, and then with the movement of
13 vessels in the Port Superior harbour and the movements
14 of vessels in Fort William and Port Arthur. With
15 the advent of the Great Lakes Pilotage Act and the
16 putting into effect on May 1st, 1961, they increased
17 our area to Port Huron Lightship and Chicago and all
18 the connecting waters and channels and ports, so this
19 encompassed these three lakes for our district.
20 Lake Huron and Lake Michigan are connecting lakes
21 and Lake Michigan being one end of a terminal lake
22 we were to share this with District No. 2.

23 Q. Is this the same procedure which
24 is followed at the present time?

25 A. Yes, it is.

26 Q. You stated that you had sixteen
27 pilots in your district, thirteen Americans and three
28 Canadians. Do you have other pilots as applicant
29 pilots or as trainees or under some form of training?

30 A. Yes. The law provides that we may
have up to five applicant trainees at any specific
time subject to the approval of the administrator.



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Q. In Washington?

A. Yes.

Q. How many trainees do you have at the present time?

A. One.

Q. Did you have more than that in the past years?

A. Last year we had three.

Q. I see, and what do these trainees do?

A. By law they are supposed to have master^s and first class pilot's certificate and they are required to make a minimum number of trips in specific areas delegated by the law before they become a registered pilot.

Q. Who assigns them to ships?

A. They fall into the pattern under the despatcher.

Q. Do they travel with another pilot or do they take ships alone, for instance, across a lake or something like that?

A. This particular programme does not have the stability that I believe it should have. It varies on a man's experience. We may get a man with a first class pilot's licence and a master's licence who has been a master of a Great Lakes ship for a number of years. It then becomes apparent to the Board that if he has made a few trips to acclimate himself with the different types of ships he is prepared to start to go by himself; whereas you



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may get a man with a master's licence and a first class pilot's licence who has never been any more than a second mate. This would entail more ship-handling experience, more docking and undocking.

Q. Who decides on how much experience a man should get?

A. The examining board.

Q. How do you proceed in reaching such decisions?

A. Before this man is allowed to apply for a registration he must make a trip over the route with each member of the examining board and the examining board then will pass judgment and if the majority will favour this he will be recommended for registration.

Q. And that examining board is composed of pilots only?

A. Yes, sir.

COMMISSIONER SMITH: Mr. Lalonde, just to clarify one point, would the word "trainee" be synonymous with "apprenticeship" as an apprentice?

THE WITNESS: Your honour, this word "apprentice" has caused much consternation in all the hearings that I have attended in the States. There seems to be a resentment on the part of anyone holding a master's licence and first class pilot's licence to be called an apprentice. So to satisfy everyone concerned we always refer to them as an applicant.

COMMISSIONER SMITH: All right,



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2 thank you.

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MR. LALONDE:

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Q. But for practical purposes they
are getting their training or apprenticeship somehow;
is that the way you ---

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A. I won't say it, but ...

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Q. So the way I understand it is that
you have no specific rules as yet as to how many
trips are required and how long the training should
be?

12

A. Yes, we have that.

13

Q. Is that put in writing?

14

A. I have that here if you wish.

15

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Q. Yes. You are referring to the
Great Lakes Pilotage Regulations?

17

A. Yes, sir.

18

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Q. That is all right. We do not need
to go into this any further.

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A. On page 11, subparagraph (b), yes,
sir -- District 3.

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2 If the Commission would refer to Section 402-220
3 of the Great Lakes Pilotage Regulations and Orders
4 filed as Exhibit 1028, at page 11, these are speci-
5 fied as minimum number of trips?

6 A. Yes.

7 Q. I understand that your examining
8 board could require a greater number of trips if they
9 found it necessary?

10 A. Yes, we could.

11 Q. In practice in the past have you re-
12 quired a larger number of trips?

13 A. No.

14 Q. On some occasions?

15 A. No, we haven't as yet.

16 Q. Not as yet?

17 A. We have asked that some of these
18 trips be deleted because of the fact that to get a
19 ship into Green Bay is not too easy for an applicant
20 so far as being able to follow a tour de role and
21 still work his trip into Green Bay, to get the
22 minimum number.

23 Q. Now, you stated that you had working
24 rules, and I understand Mr. Kuefner will be giving
25 more detailed evidence about the working rules?

26 A. Yes.

27 Q. Could you explain to us how the
28 working rules, however, were adopted?

29 A. At the outset of our incorporation as
30 a group it was apparent that some form of working
rules would have to be put into effect. By retaining



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3 legal counsel we drafted a rough set of rules at the
4 beginning of the season, and at the end of the season
5 our experience dictated that some of these regula-
6 tions or rules should be changed; so in the past six
7 years now we have had the practical experience of
8 the feasibility of making the rules and we feel
9 that through our experience we have a practical set
10 of rules that seems to function properly.

11 Q. Now, I think the rules need to be
12 approved by the administrator in Washington; is that
13 correct?

14 A. That is correct.

15 Q. Have your most recent rules been
16 approved as yet?

17 A. They were submitted to Washington at
18 the beginning of the year and Washington has not
19 approved of the rules and has sent us back some of
20 the articles that should be changed. There is
21 nothing of any consequence.

22 Q. You are still in process of discus-
23 sing them?

24 A. Yes.

25 Q. Now, I would like you to take your
26 brief -- the brief of your Association -- filed as
27 Exhibit 1376, and I would like to go over the recom-
28 mendations which are set out in pages 1, 2 and 3.
29 The first recommendation states, at the bottom of
30 page 1:

"Specifically it is recommended
that either a registered pilot, U.S.



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2
3 or Canadian, be available to
4 assist in the navigation of a
5 vessel on open waters and on
6 designated harbours and rivers
7 of the Great Lakes, or that at
8 all times there be on the bridge
9 of the vessel an individual who
10 is a regular watch-keeping officer
11 of the vessel and who possesses
12 the following qualifications:

- 13 (a) Fluency in use of the
14 English language;
15 (b) Familiarity with the area
16 to be transitted as shown
17 by at least two prior trips
18 in the specific waters on
19 which the vessel is sailing,
20 such trips being made within
21 a two-year period next pre-
22 ceding the transit in ques-
23 tion;
24 (c) Familiarity with Great Lakes
25 rules of the road.
26 (d) Familiarity with use of ship's
27 radiotelephones."

28 Later on at page 11 you go on commenting on those
29 specific recommendations. I see that you are
30 requiring a certain number of qualifications, some
of them already in the regulations or in the Act, one
of these being the fluency in use of the English



1
2 language. Is there any particular reason why you
3 repeat that requirement in the recommendations here?

4 A. Well, the telephone as it is placed
5 aboard a ship is there to be used as an aid to naviga-
6 tion. There are times when you are manoeuvring or
7 navigating that you know specifically that they have
8 a telephone and they have a B certificate and
9 they never answer the phone.

10 There are instances where I have
11 been aboard a ship where there were none -- we didn't
12 have a B certificate -- and I was a trans-lake pilot,
13 and every time you turned your back they turned the
14 telephone off. It becomes irritating to them. And
15 you are not always sure that the watch-keeping officer
16 is a man who can speak English.

17 Q. Did you have this experience your-
18 self?

19 A. Yes.

20 Q. And do you have similar experiences
21 reported to you as president of the Association?

22 A. Yes; we have records, or we have a
23 log book, in our office, where men have come in
24 complaining about improper use of a telephone.

25 Q. What is the practice with regard to
26 the radiotelephone on the Great Lakes? Has it got
27 to be on all the time, or what?

28 A. Yes. 2182 is your distress chan-
29 nel and a watch should be maintained on it all the
30 time.

Q. And when you are on board a ship you



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keep this channel open all the time?

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A. Yes, sir.

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Q. The second requirement is familiarity with the area, and I notice that the brief underlines the requirement of having two trips in the specific waters on which the vessel is sailing. What do you have in mind there?

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A. This B certificate seems to be a sort of vague certificate; it is given kind of carte blanche. They just give it and it covers all portions of the lakes. We had an experience not more than probably ten days ago, or fifteen days ago, of a ship by the name of FRO. She has a B certificate for Lake Michigan. When she arrived at Port Huron, which is the exchange point for pilots, she was going to Green Bay, so she asked for a pilot. Although she had a B certificate which allowed her to proceed into this port without a pilot the captain stated that he wanted a pilot because he had never been there; and yet he had a certificate for that specific area.

21

22

Q. Green Bay is also in Lake Michigan, isn't it?

23

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A. Yes. This was a B certificate issued for Michigan, for the Lake Michigan area, which includes this Green Bay area, so when the master wished a pilot here . . .

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Q. That is at Port Huron?

A. Yes. He had a B certificate for Huron and he had a B certificate for Lake Michigan,



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3 but he was going in to Green Bay, so therefore he
4 retained the pilot here (indicating).

5 Q. That is, at Port Huron?

6 A. At Port Huron.

7 Q. He retained him on board?

8 A. Either that or picked up a lake pilot.

9 Q. Yes?

10 A. And he carried the pilot all the way
11 to Green Bay because of the fact that he needed the
12 pilot for this immediate area; he had never been in
13 here (indicating) and yet he had a B certificate.

14 Q. And when you say "in here" you mean
15 in the Green Bay area?

16 A. Yes; and, by the same token, we have
17 specifically the Manchester liners trading in Lake
18 Superior when they are upbound, and they are going
19 to Red Rock, which is through this little narrow
20 channel (indicating) -- they have a B certificate
21 that would allow them to go there, but they just
22 don't care to navigate that stretch of water and
23 they will retain a pilot at Gros Cap even although
24 they have a B certificate and carry him up there.

25 COMMISSIONER SMITH: What is the
26 name of that narrow neck of water which you mentioned?

27 THE WITNESS: That is Green Bay it-
28 self.

29 COMMISSIONER SMITH: That is Green
30 Bay?

THE WITNESS: Yes.

MR. LALONDE:



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Q. Off Lake Michigan?

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A. Yes. The City of Green Bay is located here (indicating) and this is the Green Bay.

6

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Q. So your recommendation is to the effect that the B certificates should be more specific than they are at the present time?

9

A. They should be, yes.

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MR. LALONDE: Mr. Commissioner, I think there is a slight error in the brief at page 11, which should be corrected, however. It refers in the first paragraph to a requirement for two trips on Lakes Ontario, Erie, Huron and Michigan and then it goes on to state that the requirement would be one trip on Lake Superior. I don't know whether in practice this is what happens, but I have not been able to find anything in the regulations which would say that one trip would be sufficient in Lake Superior. I think the general statement should be that the regulations provide for two trips over all the Great Lakes. So that statement is not quite correct.

21

22

23

CAPTAIN SLOCOMBE: Yes, it is one trip into Lake Superior -- one round voyage into Lake Superior.

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MR. LALONDE: I apologize, then. My bylaw isn't quite up to date.

Is this as an amendment to the Great Lakes Pilotage Regulations? It may be just practice; but this is the Great Lakes Pilotage Authority -- P.C. 1961-623 -- which provides at Article VII,



1
2 subparagraph 2, that the certificate or qualification
3 issued pursuant to paragraph (a) of subsection 1 shall
4 not be issued to a person unless he has satisfied an
5 examiner delegated by the Minister that (a) he holds
6 a certificate of some sort and then (b) that he has,
7 within the preceding seven years, made at least two
8 round trips into the waters for which he is deemed to
9 be qualified.

10 MR. BRISSET: I think everyone has
11 realized that there is a limit to stupidity.

12 MR. LALONDE: My friend has certainly
13 raised a nice argument at this point, but if we are
14 going into an argument on stupidity we might have an
15 argument for a long time about a lot of things.

16 This is a legal point and I thought
17 as a lawyer he should have a better answer than that
18 one.

19 However, Captain Slocombe may find
20 the answer about this.

21 CAPTAIN SLOCOMBE: I shall be able
22 to explain this later.

23 MR. LALONDE: Yes.

24 Q. Now, before proceeding to your second
25 recommendation I have a few more questions. You
26 referred to the case of the vessel FRO a few minutes
27 ago. Do you have other instances of vessels having
28 a B certificate which would seem to indicate, in your
29 view, that the examinations are not stringent enough,
30 or something of that sort, as to the issuance of B
certificates?



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3 A. We had an instance -- it is a sad one
4 -- where, about three weeks ago, or almost four weeks
5 ago, a ship arrived in Fort William-Port Arthur and
6 had no experience in entering the entrance into Keefer's
7 terminal, and what he assumed was Keefer's termina
8 turned out to be the Mission River entrance, and
9 there was a collision between the INVEREWE and the
10 TYNEMOUTH. The INVEREWE was supposedly at the
11 south entrance and she was at the Mission River, and
12 the TYNEMOUTH was outbound at Mission River piers
13 and unfortunately there was a collision.

14 MR. BRISSET: Well, sir, I would
15 like to enter an objection to the statement that
16 Captain Rico has made as to the cause of this col-
17 lision, and unless Captain Rico can tell us that he
18 has investigated himself what has happened I don't
19 think he would be in a position to give us an opinion.

20 MR. LALONDE: He is not giving the
21 cause of the accident. He didn't see it. He is
22 not saying it was because the ship was out of the
23 channel or something of that sort. This is evidence
24 that, according to his information, the ship was in
25 a place that it didn't think it was at all. There
26 might very well not have been a collision, and this
27 may not be the cause. Maybe the ship was on the
28 right side of the channel, and so on . . .

29 COMMISSIONER SMITH: I think he
30 might confine himself to the particulars and leave out
the cause.



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Q. How did you find out? How do you know about the fact that that ship would be at the entrance of Mission River while the ship thought it was somewhere else?

A. The examining board received a statement from the harbour pilot in Fort William.

Q. Was there a pilot aboard the TYNEMOUTH?

A. No. The TYNEMOUTH won't use a pilot in Fort William. The pilot was en route from the pilot station to the south entrance to board the INVEREWE.

Q. Yes?

A. Well, I can't attest to the visibility. According to the statement of the pilot, the pilot went to the south entrance and didn't find the ship, and with the assistance of a laker which was anchored, and radar, I believe he helped to find the ship over off Mission River.

This is what is told to me from the pilot in Port Arthur, and being a member of the examining board, all this information is usually funnelled back to us, and we process it.

Q. So that the pilot was called for the south entrance?

A. Yes, sir.

Q. And when the ship was found the ship was at the entrance of Mission River; is that correct?

A. Well, I won't answer the question.

Q. That is the report you had?

A. Let Mr. Brisset answer it, where did



1
2
3 the collision occur.

4 A. I see. What is the distance between
5 the south entrance and this other place which you
6 call the entrance of Mission River?

7 A. Approximately three miles.

8 Q. I see. Now, you referred previously
9 to the case of a ship going to Green Bay, and
10 although having a B certificate, required a pilot
11 because the master said he was not in Green Bay
12 before. Do you know what ship that was, or what
13 line?

14 A. It was the FRO, but we have exper-
15 iences other than that.

16 Q. Yes. What other experience have you
17 had?

18 A. Well, Captain Malette had the
19 TORR-HEAD from Chicago to Kenosha. The ship had a
20 B certificate and departed Chicago with Captain Malette,
21 and took him into Kenosha because the captain had never
22 been in port before; he had no experience in this port,
23 and he needed assistance of a pilot. At least in
24 his judgment he did.

25 Q. He was asked by the master to stay
26 on board?

27 A. Well, by the despatcher. He was
28 assigned, and he was asked to be retained on board,
29 and take him out.

30 Q. Do you have shipping companies who
operate as regular liners in your district?

A. Yes, we do.



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Q. What is the name then?

3

A. Farrell, Manchester enter Chicago.
States Marine.

5

Q. Take the Manchester Line, for instance.
Where do they operate mainly?

7

A. Between the U. K. and Great Lakes,
which would be down all the various ports, all the
way up and all the way back.

9

10 Q. In your district they would do all
the ports?

11

12 A. They do Fort William-Port Arthur
and Duluth-Superior and the occasional trip to Red
13 Rock.

14

15 Q. I presume the ships have B certifi-
cates?

16

A. All of them do, yes.

17

Q. And do they require pilots sometimes?

18

A. They use their pilots in Duluth-
Superior, in Fort William-Port Arthur, and they also
19 ask for services into Red Rock.

20

21 Q. If they go to Red Rock, to your
knowledge do they take a pilot all across Lake
22 Superior, or do they manage to get a pilot at Red
23 Rock?

24

A. If they are going from here, which
is Gros Cap to Red Rock which is up here, they keep
the pilot on board and go right down there, and the
pilot remains on board until he comes out of Red Rock
26 and over to Fort William and then they discharge the
27 pilot in Fort William.
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3 Q. If these liners go to Duluth or
4 Fort William-Port Arthur, do they keep a pilot from
5 Gros Cap or take a pilot into port itself?

6 A. Into port itself.

7 Q. Into port itself? I would like to
8 proceed to your second recommendation No. 2, that
9 pilotage pools and the areas of their reciprocating
10 responsibility be continued under the present arrange-
11 ment.

12 Have you anything to say on this
13 particular point other than what is written in your
14 brief, or do you prefer Mr. Kuefner to comment?

15 A. Well, I would like to go on record
16 favouring that this method be continued. I might be
17 selfish in saying this, but if I came under the
18 influence of central control I would be a lost sheep.
19 I would be stuck out in Red Rock probably and forgotten
20 about, because it is so remotely connected with any
21 central control that you might have that I could be
22 up there for a week and nobody knew I was still in the
23 pilot business. You see, I would further wish to
24 explain that.

25 Q. Yes, by all means do.

26 A. I get paid for what I do. I do not
27 have a fixed income. I want to work, and every day that
28 I sit on the beach I don't get paid. After two days
29 that I am not getting an assignment I get pretty
30 irritable.

COMMISSIONER SMITH: Would there be
many others in the same situation?



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THE WITNESS: All our pilots on the American side get paid exactly for what they do.

COMMISSIONER SMITH: I meant up at Red Rock or some other isolated place and get lost?

THE WITNESS: Green Bay, Milwaukee, this Muskegan, these are little sanctuaries where you can hide yourself. We don't like to get caught in these holes, you know. The despatcher has a tendency to forget us.

COMMISSIONER SMITH: It is all right in Green Bay. There is football.

THE WITNESS: Yes, but if you don't pilot you don't have enough to pay for the game.

MR. LALONDE:

Q. Your brief comments at page 12 with this recommendation:

"It is the conclusion of the pilots that the theoretical gains from so-called central control are 'paper' advantages which are more than offset by the loss of flexibility and an attitude of responsibility which comes from pilots who have voluntarily associated under the Act in furtherance of their common endeavour."

Do you have any comment to make on this statement?

A. Well, we have put a system together with past experience. I believe we have more experience than District 2 or District 1. Excuse me now, I



1
2 don't mean to make comparisons for criticism. I
3 make comparisons from a practical standpoint. We
4 have the experience, and we have assembled facts,
5 and it has been an experience that has cost us con-
6 siderable money. We have been criticized for this
7 also. But, like anything that is new, you pay to
8 learn, and we have paid quite expensively. We are
9 not sorry for the money we have spent.

10 We have learned a lot. We feel
11 that as the years go by our expenses become less and
12 less, but as far as expenses totally eliminating them-
13 selves, some people feel that this could happen.
14 This is a fallacy. When you are in business you
15 must have expenses, and problems arise, and if you
16 need aid or suggestions, you pay for those. You
17 hire attorneys. You seek consultation to improve
18 your business. We have done that.

19 I have never been in business before
20 in my life. I was totally ignorant of how to run an
21 Association; what goes into a corporation. I have
22 always worked for a corporation. I never was a part
23 of one. So this was an education for me too, and along
24 with myself, it was like all the rest of the unemployed
25 masters and mates I worked with; they all worked for
26 corporations, and never owned one themselves.

27 After we began to work for our-
28 selves we realized that the companies we worked for
29 weren't so bad after all. They had to make a living
30 too, and our problems more or less paralleled the
31 problems we encountered with the people we were employed
32 with formerly.



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3 This comes with experience. We have
4 this experience. We feel we have the know-how to
5 run an Association, and we feel that we are doing a
6 real good job at it.

7 Q. I would like to proceed to Recom-
8 mendation No. 3 where you ask that more authority be
9 exercised at a local level to deal with operational and
10 administrative problems.

11 Do you have anything to add to your
12 brief and the comments you make at pages 13 and 14 in
13 that respect, or would you leave this to Mr. Kuefer?

14 A. Well, like I just said, we feel we
15 are in a position now that we can run our own Associa-
16 tion. We have the experience we have gained in the
17 past six years.

18 Furthermore, I don't see why a govern-
19 ment should concern itself with a hundred and some odd
20 pilots to administer day to day operations, or get down
21 to the nose-blowing level where you have to follow
22 each pilot individually. I think with all due respect
23 to the government they should have regulations and
24 then allocate these to the pools that will go ahead
25 and function on their own. It is a problem of the
26 pool to be successful, and not the problem of the
27 government.

28 I think there are areas where the
29 two governments must coordinate on pilotage. That is
30 acceptable, but for the day-to-day operation of a pool
and the administration of its funds and the assessment
of fines and penalties for infractions of rules, I



1
2 would like to feel that pilots are men enough to
3 be able to stand up and be recognized.

4 Q. Is it your view at the present time
5 that you have not enough local authority?

6 A. We don't have enough local authority
7 or communications amongst, say, Lake Superior Pilots
8 Association as employer and Canadian Government as an
9 employer.

10 Q. Well, we are coming to that later on
11 where you comment about governments and contacts between
12 governments. Your fourth recommendation states within
13 a particular pilotage pool all participants, U. S.
14 and Canadian, stand on the same footing as free pro-
fessional pilots.

15 What are your reasons for this recom-
16 mendation?

17 A. Well, primarily we have three
18 Canadian pilots in our district -- they are as fine a
19 bunch of men as I have ever met in my life. Excep-
20 tionally fine people. I have compassion for them
21 at times when they work for \$47 a day and get into
22 St. Mary's River and make three, four, five consecutive
23 runs in the river without stopping. A run in the
24 river entails about eight hours. You take one from
25 one end of the river, which is down here, and bring it
26 up to Gros Cap, and then just get off the ship and get
27 on another and go right down and go right back up
again. Three is not uncommon. For this the fee
is \$200.

28 Well, the man makes three trips. He
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30



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3 has brought in \$600 to the Corporation. This man
4 receives, what, \$47 a day, for \$600 worth of ser-
5 vice. I would like to ---

6 Q. On the other hand you might be
7 answered that he also received \$47 the day he has got
8 no ship.

9 A. Believe me, there are not many
10 days he is going to get that \$47 free.

11 Q. What problem does this make for you?

12 A. Well, it makes -- one specific pro-
13 blem is trying to intermesh free enterprise pilots with
14 civil service pilots. There are any number of regula-
15 tions that must be adhered to because of the status of
16 civil service pilots whereas the free enterprise
17 pilot is responsible to his pool. He is respon-
18 sible initially to himself, to make a living. Second,
19 he is responsible to the pool in allocating funds
20 he has received into the pool for the operation of
21 the pool for the benefit of himself.

22 The Canadian pilot, under the civil
23 service is not only obligated to his pool, but he is
24 obligated to the government, so actually he is trying
25 to serve two masters.

26 We would prefer to take the
27 Canadian pilots in as free enterprise pilots with all
28 the rights and privileges entertained by the rest of
29 the pilots in the pool and not expect them to bear
30 any expense which is not directly apportioned to them.

Q. Now, you have a fifth recommendation
to the effect that pilots be permitted and encouraged



1
2 to establish more direct contact among themselves
3 and between the pilots and their associations on the
4 one hand and shipowners and their associations on the
5 other.

6 What problems do you encounter in
7 that respect?

8 A. There has been a tendency by the
9 governments to ask us to circumvent any specific problems
10 we have and channel them directly, say, to Washington
11 and on to Ottawa and then Ottawa back to Washington and
12 back to us. It is a roundabout fashion of dealing
13 with a direct problem.

14 I have a lot of respect for Captain
15 Matheson, and he and I discuss pilotage quite a bit.
16 He represents the Shipping Federation. If we have
17 any problem along the line I can pick up the phone and
18 call Jim any time. It seems that we never wind up with
19 any problems. The problem seems to be around us and
20 not immediate to us. Anything that comes up is not
21 so great that it can't be passed over and settled
22 immediately. Why make sort of a federal case out
23 of something that does not warrant it?

24 Q. I see. Has your Association taken
25 any steps in an endeavour to have more direct contacts
26 with the local shipowners, for instance, or agents in
27 your area?

28 A. We deal directly with all the agents
29 in our district.

30 Q. What about the direct contact
amongst the pilots as recommended in your Recommendation



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Rico, dir
(Lalonde)

19908

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No. 5? You say they should be permitted and encouraged
to establish more direct contacts amongst themselves.

4

Do you encounter any difficulties in that respect?

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I refer you to page 2 of your brief, paragraph 5.

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2 A. Yes, I would imagine that this would
3 concern pilots in other districts.

4 Q. Yes, I suppose so.

5 A. We would communicate with one another
6 and pass on information that would be an advantage to
7 one another.

8 Q. Your recommendation implies here that
9 this is not done enough or that you are prohibited from
10 doing that at the present time.

11 A. Well, I will tell you our experience
12 in communication leaves much to be desired. Our
13 despatch is the backbone of any pilotage pool and
14 anticipated need of pilotage is communications. With-

15 Q. Yes, and is it your experience that
16 you encounter difficulties in establishing these
17 contacts?

18 A. We have had difficulties. I would
19 prefer to have Mr. Kuefner enlarge on this.

20 COMMISSIONER SMITH: Do you wish
21 to adjourn now?

22 MR. LALONDE: Yes. Captain Rico
23 is just recuperating from a very serious car accident
24 and I would not like him to be on the stand for too
25 long.

26 COMMISSIONER SMITH: Yes. Well,
27 we will adjourn for ten minutes.

28 ---Short recess.
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2 ---Upon resuming.

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4 MR. LALONDE:

5 Q. Captain Rico, we have reached
6 Recommendation No. 6, to the effect that the role of
7 government in the area of pilotage be reduced with
8 participation only in regulation and problem-solving
9 at a government level, and the comments on this
10 point at pages 17 and 18 of your brief. You have
11 already said a few words about that. Do you have
12 anything to add at this point to what you have already
13 said?

14 A. I think it would be preferable that
15 Mr. Kuefner answer some of these questions owing to
16 the fact that he does deal directly with the govern-
17 ments.

18 Q. Yes, and the same would apply to
19 Recommendation No. 7 with the comments on pages 17 and
20 18?

21 A. That is correct, yes.

22 Q. Recommendation No. 8 states that the
23 existence of port pilotage on the Great Lakes should
24 be recognized as a fact and that specific rates and
25 terms be established for these services in the various
26 ports. What do you have in mind there?

27 A. Well specifically there is a general
28 need for pilots in ports for port work. With all due
29 respect to the abilities of deep sea navigators and
30 their proficiency in taking ships from one end of the
earth to the other, when we arrive in an area that



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2 requires a training of a special skill this is the
3 area that should be allocated to a port pilot or a
4 pilot who is specially adapted for work in the given
5 area.

6 I had an opportunity to talk to the
7 master of the DEA DROVIG the other day. He happens
8 to be a personal friend.

9 Q. Which ship again?

10 A. The DEA DROVIG.

11 Q. Yes?

12 A. We discussed pilotage in general and
13 asked particularly about the tug situation and tug
14 assistance and manoeuvres of port pilotage in Rotter-
15 dam. He said that when he had talked with pilots
16 in these other areas and told them that they negotiated
17 the Seaway and the Welland Canal and other port areas
18 without assistance of tugs, they just passed it off and
19 said that they did not believe it.

20 I do not like to blouse up our
21 own business as pilots but I do not mean to degrade
22 it either. I think pilots are exceptionally skilled
23 and somewhat temperamental people. I think port
24 pilotage is a fact. It is something that you just
25 cannot hide under the rug. Some things looksimple to
26 people -- taking a ship from the breakwater and going
27 into a pier and docking the ship and it is all over
28 with and it did not take too much time, maybe an
29 hour, sometimes forty-five minutes, and the job is
30 done. Rather than minimize the efforts and the skills
that were placed in a person doing this job I think



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3 credit should be given to them but they are so pro-
4 ficient in their job that it looks effortless from
5 probably a layman's point of view.

6 Also when you arrive at these areas
7 where we feel pilotage is necessary there is a general
8 control of vessels, elimination of damages, elimination
9 of marine hazards, and a satisfaction that the ship
10 will be on berth at such-and-such a time, and also
11 a lot of saving to the shipowners in times of des-
12 patching a ship from one berth to another, and also
13 we are called on, especially in Duluth-Superior harbour
14 we are called upon to do over and above the actual
15 piloting work placing a ship in the proper berth,
16 loading spouts, assistance to the elevators and
17 answering the telephone for the master and assisting
18 him in some of his stability plans and things of this
19 nature. We do a lot of things over and above what
20 we are supposed to do.

21 Q. But at the present time you have a
22 rate, do you not, established for the movement in the
23 harbour? Do you not have that in your regulations?

24 A. There is no specific rate for a given
25 move in any of the harbours in the Great Lakes.
26 According to our regulations you are hired on a 24-hour
27 period or a part thereof, which consists of \$50.

28 Q. Yes?

29 A. Then, in addition, if you make a
30 harbour moveage this rate is established at \$25. So
in essence if you take a ship from berth A to berth B
and you complete your assignment and you complete it



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3 within three hours, and the master is no longer in
4 need of your services, you get \$75 -- the 50, which
5 is a part of the 24 hours and the 25 for moving the
6 ship.

7 Q. I see, and if you are taking a ship,
8 let us say, from Gros Cap to Duluth you get \$50 for every
9 24 hours or part thereof. Do you also get \$25 if
10 you dock the ship in Duluth?

11 A. This is correct. This is considered
12 docking or undocking of a trans-lake movement.

13 Q. What do you mean when you say specific
14 rates and terms should be established for that service
15 in various ports?

16 A. In all port areas movements in a
17 harbour have certain limitations as far as mileage
18 or special type skills in manoeuvring ships in a
19 given area. I could bring up a point such as the
20 trans-oceanic terminal in Chicago which is from the
21 south breakwater to the terminal approximately a
22 mile and a half, and then you are on the berth. For
23 this you receive \$75, which is the 24-hour period or
24 a part thereof, \$50, and then \$25 for the moveage --
25 not the docking, the moveage in the harbour.

26 Q. Yes?

27 A. A trip from South Chicago breakwater
28 to Lake Calumet would accomplish nearly four hours
29 for the same price. The fees are not consistent.
30 What may be good for the Port of Chicago or the Port
of Duluth or the Port of Fort William by the same token
would not be the same as going into Kenosha, which



1
2 has two piers jutting out into the lake and immediately
3 on arriving at these two piers you are on the berth.
4 This is a different type of manoeuvre. It does not
5 require the same as the other. The ports are all
6 different and there should be some rate structure for
7 port pilotage.

8 Q. I see. What you have in mind is
9 that there should be differential rates according to
10 the ports and the difficulties encountered and the dis-
tances; is that right?

11 A. I feel this would warrant attention
12 on the part of the Administration.

13 Q. Have you raised this matter with the
14 authorities up to now?

15 A. I believe at the hearings we had in
16 Detroit in April of this year the Shipping Federation
17 of Canada, Mr. Colley spoke of a rate structure for
18 port pilotage.

19 Q. As far as your Association is con-
20 cerned have you tried to develop a project in that
21 respect, specific figures, or is this still in the
stage of discussion?

22 A. We are exploring this now and we
23 would like to cooperate with someone in this direction,
24 yes. I might add, however, that in our district
25 port pilotage represents a very high figure in our
gross intake.

26 Q. Recommendation No. 9 states that to
27 the extent consistent with prior commitments to over-
28 seas nations minimum standards of vessel equipment
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2 and navigational aids be established.

3 A. This brings to mind now that with
4 our experiences in the Seaway now we find that the
5 vessels are better equipped than they were initially
6 at the opening of the Seaway. We still have an
7 occasional ship now that comes in with what we feel
8 is not the minimum equipment, but the reason we
9 brought this up is that we have ships entering the
10 Seaway who have radar, who have a gyro, who have a
11 depth sounder, who have the equipment aboard the
12 ship but along the line somewhere this equipment
breaks down and it becomes valueless.

13 To say that it is necessary that ships
14 have minimum standards for entering the lakes is not
15 sufficient. The minimum standards are fine but let
16 us have the minimum standards in working order.

17 COMMISSIONER SMITH: What are the
18 minimum standards?

19 THE WITNESS: Well, could you
20 answer that?

21 MR. LALONDE: No, I cannot. The
22 question is addressed to you.

23 THE WITNESS: I am not sure what
24 the minimum standards are. You will have to excuse
me.

25 MR. LALONDE:

26 Q. The question is not related to
27 legal terms. I think the question is, what do you
28 consider should be the minimum standards as far as
equipment is concerned?

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2 A. Myself?

3 COMMISSIONER SMITH: Yes.

4 THE WITNESS: I would consider a
5 gyro in working order, a radiotelephone in working
6 order, a radar in working order and a depth sounder in
7 working order. These are the minimum that I would
8 like to see. All the accessories that go with it
9 are fine, but these are your basics for navigating in
10 confined areas.

11 I do not speak of our Association
12 alone. I want to make myself clear that we are not
13 the ones being persecuted because we do not have this
14 equipment. I am sure all the rest of the pilots have
15 experienced some of these circumstances. But speaking
16 for our own Association, we would like to see these
17 minimum standards met, not so much that they do, but
18 to have it in working order.

19 COMMISSIONER SMITH: We had one
20 witness before the Commission who said nowadays there
21 is between forty and fifty thousand dollars'worth of
22 equipment on a ship's bridge, which I suppose would
23 include all those that you mentioned and some others
24 as well.

25 THE WITNESS: Your honour, the
26 fact is that it is a rare occasion when you get a
27 ship now that does not have some of this equipment.
28 In fact so far this year I have not had a ship that
29 did not have a gyro compass. But I have had a ship
30 this year, the DEVINA that had a gyro, a radar, a
radiotelephone and a depth sounder, and the only thing



1
2 that worked was the magnetic compass. To have this
3 equipment and not to have it in working order, this
4 is the sin.

5 MR. LALONDE:

6 Q. Did you inquire from the master in
7 this specific instance whether that equipment was work-
8 ing when he entered the Seaway?

9 A. I did not ask him if it was working
10 when he entered the Seaway. I asked him at the
11 berth when he was in Duluth. The reason this
12 particular ship stands out in my mind is that the
13 ship was brought by one of our pilots from Muskegan,
14 Michigan, to Duluth. She is a little thing; she is
15 only about 250 feet or so. He got her up into
16 Lake Superior. Visibility was limited and he was
17 using his magnetic compass. He was holding up,
18 as he put it, eight degrees to allow for the wind
19 setting him down for leeway and what he thought he
20 was steering up in this direction here, he wound
21 up about two miles off this light here.

22 Q. Would you indicate approximately
23 where it is?

24 A. It is Grand Island. It kind of gave
25 him a little scare.

26 Q. I can imagine. What was the state-
27 ment of the master when you raised this matter with
28 him in Duluth?

29 A. I then moved the ship when it was in
30 Duluth and asked if the master would get his gyro and
his radar fixed. The answer was that it was too



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3 costly and that he was going to wait until he got
4 back into Europe because he could get it done cheaper
5 over there.

6 Q. Have you had experience yourself
7 of other ships where some of the equipment did not
8 work properly when you were on board, some of what you
9 would call the minimum equipment?

10 A. Yes. I cannot remember instances
11 but I have had cases where the equipment was faulty.
12 But, I don't know, by the grace of God we always
13 got through.

14 Q. To your knowledge are there any
15 requirements from the U.S. coast guard, for instance,
16 with regard to the equipment? Does the coast guard
17 inspect those ships, or could the coast guard in the
18 U.S. require for instance the ship you mentioned to get
19 the equipment fixed before it could leave?

20 A. I believe the only recommendation
21 that they make is that the ship have a compass -- and
22 this could be the magnetic compass -- and a radio-
23 telephone.

24 I did have an unfortunate experience
25 with an extended liberty ship loaded with scrap iron and
26 a magnetic compass. I wound up over a little place
27 called Pancake Shoal.

28 Q. After having left Gros Cap?

29 A. No, after having left Duluth. We
30 were fortunate enough to get down this far. But some-
where between Caribou and Pancake Shoal the compass
started to react differently, I assume. But a ship with



1
2 9,000 tons of scrap iron dependent upon a magnetic
3 compass for sailings gets a little precarious.

4 Q. To your knowledge are there some
5 official bodies in the United States in the ports who
6 would inspect the functioning of the minimum equipment
7 aboard the ship?

8 A. I do not know.

9 Q. You do not know of any?

10 A. I do not know of any, but it would
11 appear that it would be the coast guard's function.

12 Q. My question is, to your knowledge do
13 you know of any regulation which would require the
14 ships to have that minimum equipment in working order?
15 Do you know of any regulations?

16 A. The only conceivable place they
17 would be would be in the International Safety of
18 Life at Sea -- if it is there.

19 Q. Your tenth recommendation, your
20 last recommendation is that steps be taken to ensure
21 adequate and sanitary facilities for the pilot who must
22 remain aboard a vessel on lake transit.
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3 A. Yes. I found no place in the laws
4 of United States that says that you must have adequate
5 facilities for pilots who are remaining aboard a ship;
6 but I received a copy of a letter from Captain Matheson,
7 which was to the Department of Transport, I believe,
8 and Mr. Slocombe mailed me a copy of that, about con-
9 ditions . . .

10 Q. Tell us what you know about this
11 personally.

12 A. Well, as you should know, from
13 Duluth to Port Huron, Michigan, a ship with around
14 14 knots is a 44-46 hour run. I just came down on
15 one. She was built in 1956; it was a very nice ship;
16 but when I went to bed that night and pulled back the
17 covers the "animals" were running all around. I
18 went to the captain and asked him to come down and look
19 at the bunk, and he did, and he got the people to clean
20 it up and get rid of some of the "animals."

21 This is not uncommon, but I don't
22 know how we can go after our governments, or, actually,
23 our own pools, to try to eliminate this. You can
24 seek out the skipper and tell him that the rooms
25 should be cleaned and should be scrubbed and ventilated
26 and things of that sort, but I think it is important
27 that the pilot try to be as diplomatic as he can in
28 order to get his clean room. Because, after all, if
29 you are out on the lake and you find that your room
30 isn't clean nobody in the world is going to help you
to get a clean room unless you do it yourself.

What we have done is at the port, when



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3 a pilot comes in, we have a log book and he can sit
4 down and make a report, or a port pilot when he
5 is moving a ship from one berth to another -- we always
6 inspect the pilot's quarters, and if we find that the
7 conditions are such that they warrant attention we
8 advise Mr. Kuefner, or the business manager, and tell
9 him that he should advise the agent of the ship that
10 unless it is put into the state of being in a clean
11 condition and well ventilated and this taken care of
12 then the ship is going to wait until they do it;
13 because I don't think we should force our people to
14 go aboard ships that aren't sanitary.

15 Q. That is all very well for ships that
16 you control in the sense that they are inside one of
17 the harbours in your district. Do you have experience
18 in your group of ships coming up without proper accom-
19 modation for pilots in the sense of even proper physical
20 accommodation?

21 A. Yes.

22 Q. And I am not referring to cleanli-
23 ness or to the sanitary conditions, but I am referring
24 to a physical place for the pilot?

25 A. Yes.

26 Q. Did you have experience where you
27 had particular difficulty or problems in that respect?

28 A. I have had people tell me of this.

29 Q. You haven't had this yourself?

30 A. I have found the physical con-
ditions to be intolerable.



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3 ---At this stage the Chairman arrived and took
4 his seat.

5 THE CHAIRMAN: It was foggy in Quebec
6 this morning, gentlemen. Excuse me.

7 MR. LALONDE: When Mr. Commissioner
8 Smith told us that you were grounded, my lord, I was
9 afraid for a moment, but I understand it was due to
10 air lines and not ships!

11 Q. Now, I would like to ask a few more
12 questions concerning certain particular events in
13 District No. 3; and I must say that these questions are
14 related to the questions prepared by the Commission
15 for the Department of Transport on Great Lakes District
16 No. 3, and since you are directly concerned I would
17 like to have your views on this.

18 The first question is whether your
19 Association sought the concurrence of the Department
20 of Transport in Canada before hiring your despatcher
21 at the Lakehead?

22 A. No, we did not seek their concur-
23 rence.

24 Q. When did you hire a despatcher at
25 the Lakehead for the first time?

26 A. What year, do you mean?

27 Q. Yes.

28 A. In 1959 I met with Captain Matheson
29 in Fort William and it was agreed we would use the
30 services of Rolly Mann, a local agent in Fort William.
His services were continued on in 1960 and 1961,



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2
3 with the advent of the government participation in Great
4 Lakes Pilotage; and in 1962 the administrator for
5 our pool hired a man by the name of Don Lucky.

6 Q. In 1962?

7 A. Yes.

8 Q. So that in 1961 you had Mr. Mann,
9 who was an agent as despatcher at the Lakehead?

10 A. Yes, 1959, 1960 and 1961.

11 Q. And in 1962 you had Mr. Don Lucky?

12 A. In 1962 and 1963.

13 Q. Yes.

14 A. And last year the pilots recommended
15 that we switch over to a man by the name of Elliot
16 Dawson. Elliot Dawson was a pilot boat operator, line
17 handler and handled and all marine services in Fort
18 William-Port Arthur. He is a former licensed officer
19 in the Great Lakes.

20 I didn't know the man personally,
21 but with the recommendation of all our pilots we looked
22 into it.

23 Q. When you say "our pilots," which
24 pilots made this recommendation?

25 A. The pilots in the pool, including the
26 Canadians.

27 While Mr. Lucky, in my estimation, did
28 an adequate job in the post he was given, we had just
29 changed administrators in Duluth the previous year
30 and there was a series of comments or statements made
that anyone who was in the agency business or customs
house business or freight forwarding business should not



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3 be connected also with the pilotage business. Al-
4 though there has never been any conflict of interest
5 in the case of the person administering this job it
6 just always left an opening for someone to make
7 this comment; so in . . .

8 Q. Who were making these comments?

9 A. Well, the Shipping Federation didn't
10 look on the administrator we had in Duluth with too
11 much favour in respect that they were in the agency
12 business and also in the customs house brokerage
13 business, and they never directly came out and said
14 "Get rid of him," but it would be implied that they
15 were in the business because of the fact that they were
16 already in the agency business. So, not on the
17 strength of this alone, but, like I said, by growing
18 up and learning your own business, there was an area
19 in there that could lead to some doubt, and we had
20 comments that anyone who was in the agency business
21 should not also be in the pilotage business because
22 they could favour their own vessels over someone else's
23 vessel. This was never done, but it could be con-
24 ceived that it could be done.

25 So after revaluing all these opinions
26 we completed dissociated ourselves from all shipping
27 people and went out and created this pool by ourselves,
28 with our own administrator with no connection with
29 anyone else and acted independently. The following
30 year -- we didn't do this immediately in Fort William --
we continued on for one more year -- and the following
year Mr. Lucky, who is a customs house broker and who



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3 serves many agencies in the port and whose post as
4 despatcher would be, I say, secondary to his position
5 as a customs house broker -- we thought we would
6 divorce ourselves of the services of the officer, not
7 because he was inefficient, or because he was untrust-
8 worthy, or any other reason, except for the fact that
9 Mr. Dawson is more closely aligned with the shipping
10 business at the end that we needed in Fort William and
11 Port Arthur, as he has all these marine services --
12 pilot boat services -- and he is more in contact with
13 the despatching in this area than anyone else in the
14 port; so his services actually are better for the
15 pilots. The price that we pay is the same as we paid
16 Mr. Lucky, so it wasn't a saving in cost that caused
17 us to do this.

18 Q. I am showing you Exhibit 1124,
19 filed with the Commission, which is a letter by Mr.
20 Lucky to this Commission, which letter is dated
21 April 2, 1964. I draw your attention to the second
22 paragraph of this letter, which I would ask you to read
23 and make any comments you judge are proper on it.

24 A. "The Commission may further like . . ."

25 Q. You are quoting now. You are not
26 being asked to read it aloud.

27 A. Well, my experiences with Mr. Lucky
28 have always been pleasant. I don't know of any out-
29 burst that would be considered outspoken .

30 So far as the fact that the Canadians
didn't have any voice in the operation of the pool --
I think they can speak for themselves. If they have



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3 any complaints I think they know how to complain, if
4 they are not satisfied; I am sure they don't need
5 another man speaking for them.

6 So far as where it says that they
7 ". . . forced the Canadian pilots into the Soo River
8 in December which is the worst time of the year . . ."
9 -- I don't know that this man is qualified -- I
10 don't know what is the worst time of the year,
11 whether it is December; I don't feel that this man is
12 qualified to say what is the worst time of the year.

13 Q. But my question is that he makes
14 the statement to the effect that the Canadian pilots
15 were forced to pilot in the Soo area in December?

16 A. Yes.

17 Q. Whether that is the worst time of
18 the year or not, doesn't matter. Is this statement
19 correct?

20 A. Nobody is forced to pilot anywhere. We
21 asked Canadian pilots to take care of the Soo River
22 traffic while we were having a meeting. They agreed
23 agreed to do so. There were only two pilots that went
24 down there. The meeting lasted a couple of days, and
25 then immediately, after the meeting, we sent two more
26 pilots down there to take care of the river. To my
27 knowledge that is the only reason they were asked to go
28 down there.

29 Q. And that took place in November or
30 December?

A. It took place in December.

When did we have the meeting, Mr. Kuefner?



1
2 Was it the 10th?

3 Q. Mr. Kuefner will give the details
4 if he has them.

5 A. I am sorry. The exact date I
6 don't remember, but it was the first week in December,
7 or nearly so.

8 Q. Did you have strong disagreements
9 with Mr. Lucky in the operation?

10 A. No, none at all.

11 Q. Now, to your knowledge was there any
12 discussion between your Association and the Department
13 of Transport concerning the allocation of costs to be
14 charged to the Department for operating the district?

15 A. I think that would come from Mr.
16 Kuefner.

17 Q. All right. Would you know whether,
18 when your working and despatch rules were prepared,
19 there was any consultation with the Department of
20 Transport in that regard?

21 A. Do you mean were they . . . ?

22 Q. Were the Department of Transport
23 consulted in the elaboration of your working rules and
24 the Association?

25 A. I believe they received a copy of them
26 in 1962, but I don't know if they were consulted directly
27 to formulate the rules. No, I would say not, so far
28 as to my knowledge.

29 Q. Were any representations made to
30 your Association by the Department of Transport to have
Canadian pilots stationed and retained as port pilots
at the Lakehead?



A. Not to my knowledge.

MR. LALONDE: Thank you.

CROSS-EXAMINATION BY MR. BRISSET:

Q. Captain Rico, you were questioned about the exhibit which you had before you a minute ago in connection with the allegation that the three Canadian pilots were forced to pilot in the Soo River in December of 1963. Am I right in assuming that in December there are no longer any ocean ships in that area?

A. Most usually there is not.

Q. So you are dealing or we are dealing here with local vessels of Commonwealth registry?

A. I believe that is correct, yes.

Q. Would you agree that the work of the pilot on this type of ship is not too arduous as their captains and officers are quite qualified to pilot their own vessels?

A. I prefer to let that be answered by the DOT. They issue the licence not me.

Q. Well, captain, what is your own opinion as a pilot on the placing in a compulsory manner of a pilot on lake ships manned by Canadian masters and officers that would be qualified to pilot anywhere in the lakes if they were on a Canadian lake ship instead of a British lake ship? Do you think pilots are required for safety reasons on those vessels?

A. Well, again, Mr. Brisset, if a



1
2 Canadian laker of foreign flag registry is required
3 to take a pilot in the restricted area, I would say
4 that the competency of the personnel of that particular
5 ship would be a judgment for DOT and not for a pilotage
6 pool.

7 Q. I quite appreciate that, but I
8 was asking for your personnel opinion if you care to
9 give one as a pilot and a pilot of experience.

10 A. I prefer not to give an opinion on
11 someone's competency.

12 Q. You know quite a number of Canadian
13 ship masters, do you not, captain?

14 A. I would say I know a few.

15 Q. Now, do you think that such a master
16 as some of those you know being competent on a Canadian
17 lake ship is no longer competent on a British lake
18 ship?

19 A. Specific competency is always
20 a point that should be administered by governments;
21 not by individuals. Usually when individuals give
22 an opinion on competency they tend to have some seepage
23 of personality go with it, but we like to feel when a
24 government issues a competency certificate which would
25 be a master or mate, that he would do it more on merit
26 and as a person rather than as a personality, so it is
27 too difficult for a person like me who has pilots at
28 heart and who has the marine industry at heart to
29 render an opinion that you ask.

30 Q. Captain, in my conversations with
pilots on the Great Lakes, both on the American and



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3 Canadian side, I was told of this concept: that those
4 lake ships of British registry should carry pilots
5 because this is a means of taxing them. Do you agree
6 with this concept?

7 A. I made a statement here not too long
8 ago, that having the opportunity to manage an Associa-
9 tion or be part of a management of an Association I
10 am just beginning to be aware of rates and tax struc-
11 tures and corporations, and I do not feel qualified
12 to give an opinion on someone else's corporation.

13 Q. Well, as a matter of principle and
14 speaking as a pilot, do you consider that ships should
15 be obliged to carry pilots for taxation purposes?

16 A. Are you referring more to penalties
17 than taxes?

18 Q. For penalty or tax or whatever you
19 might call it purposes.

20 A. Specifically ships should carry
21 pilots if they are obliged to.

22 Q. Why are they obliged to when they are
23 obliged to?

24 A. Mr. Brisset, you are a lawyer and I
25 am a pilot.

26 Q. So you can't tell me why ships are
27 obliged to carry pilots at times?

28 A. In my estimation ships are required
29 to carry pilots most normally for two reasons: one,
30 that it is compulsory, and the other that it is the
desire of a master to have a pilot.

Q. Safety has nothing to do with it?



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3 A. Compulsory pilotage usually entails
4 safety and all the other points that go with it.

5 Q. I won't stress the point. I want
6 to go back to some of your recommendations, captain,
7 and start perhaps at the end rather than the beginning.
8 You have referred to cases of ships not providing
9 for the pilots sanitary quarters and what a pilot
10 should expect to be given when on board a ship by way
11 of accommodation.

12 I am advised that although it has
13 often been mentioned in discussions with the Shipping
14 Federation or otherwise, it has been extremely difficult
15 to obtain specific details and specific names of
16 vessels. I would like you, if I may, to give us the
17 name of the vessel on which you had this unfortunate
18 experience of seeing a lot of "animals" in the bunk.

19 A. Mr. Brisset, I find all ships the
20 source of my revenue and the ability for myself to be
21 able to go out and work, and I find all nations co-
22 operative, and probably with very rare exceptions most
23 masters are most cooperative. To specifically have
24 me say that the cleanliness of one nation is dependent
25 upon the ships that they send over in the Seaway against
26 another nation would be hard for me to say. I don't
27 want to say that the Italians are dirtier than the
28 Greeks or the Greeks are dirtier than the Italians.

29 Q. I was asking for the name of one ship.
30 This particular ship.

A. Well ---

Q. I don't want to force you but if you do



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2 not want to give the name just tell me so.

3 A. I don't like to offend any one country
4 because of an instance that may occur, that probably
5 does not occur on their other ships. It just happened
6 to be this one ship.

7 MR. LALONDE: Could it be arranged,
8 my lord, since the witness hesitates in putting this
9 in the record as such, that he could and I am pretty
10 sure he would agree to provide it privately to the
11 Shipping Federation? Would you be willing to do
12 that?

13 THE CHAIRMAN: That is all right.

14 MR. BRISSET:

15 Q. You will agree with me, captain, as
16 we have had the experience now, that the Shipping
17 Federation has had extreme difficulties to obtain
18 specific information on any of those cases where pilots
19 have complained of the accommodation of the ship, for
20 the same reason?

21 A. Yes, but by the same token, Mr.
22 Brisset, there seems to be a hesitancy of reporting
23 individual specific fine points of things of this
24 nature that directly deal with the pilots.

25 I would like to have you have the
26 opinion and I would like everyone else to feel the
27 same way, that when a pilot makes a specific statement
28 that there were "animals" in the bunk, I would like to
29 have people believe me that there were.

30 Q. I believe you. Well, captain, you
have followed I am sure you will recall the hearings



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3 before the Congress Committee and the Senate Committee
4 on the Great Lakes Pilotage Pool from the beginning
5 in 1959 or 1957, if I may go back that far, up to
6 1961? You followed these, did you not?

7 A. Yes, I have.

8 Q. You will recall I am sure that the
9 Shipping Federation all along, not only publicly but
10 also in discussions with the pilots, have recommended
11 that all foreign oceangoing ships, all oceangoing ships
12 rather, should be inspected before they be allowed to
13 enter the Seaway at Montreal to proceed up the lakes
14 in order that the government authorities be satisfied
15 that the ship was properly equipped, properly manned
16 and so forth? You recall this?

17 A. Yes, I recall it. It was your
18 stand.

19 Q. Will you agree now that we are on
20 this subject that this inspection could also be ex-
21 tended to the cleanliness of the accommodation?

22 A. I think that would be a fine idea.

23 Q. Now, would you not agree that such
24 an inspection of every ship with certain minimum
25 standard of equipment to be provided before transitting
26 the lakes, plus sanitary quarters for the pilot, plus
27 competent watch-keeping officers and master, would be
28 much preferable than simply issuing a B certificate
29 to one officer because that officer has been twice on
30 the lakes and who speaks enough English to be under-
stood, and that sort of thing?

A. You said too much. I didn't follow



1
2 you all the way through.

3 Q. Let us take a specific example.
4 Let us take a ship coming up the St. Lawrence and
5 intending to go up the lakes?

6 A. Yes.

7 Q. Would you not agree that before she
8 enters the Seaway there should be an inspection in
9 Montreal which would cover this: a check on the
10 equipment, make sure that she has radar and that the
11 radar works, and is in working order; that she has
12 radiotelephone, and that the radiotelephone is in good
13 order; that she has a gyro compass and that the gyro
14 compass is in good working order, and so forth, going
15 down the list of what is considered to be minimum
16 standard equipment?

17 A. If you will stop there I will agree
18 with what you have said.

19 Q. Then there should be also an inspec-
20 tion of the quarters to be given to the pilots to make
21 sure that they are clean? You would agree with that?

22 A. Yes, I do.

23 Q. And then there would be an examination
24 of officers to make sure that they are familiar with the
25 lake rules of the road, that they are properly licensed
26 according to the standards which the government would
27 define, and so forth, that there is at least among them
28 one with complete knowledge of the English language to
29 use the radiotelephone on the lakes; whatever require-
30 ment might eventually be decided upon as qualifying
these officers?



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A. Yes, sir.

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4

Q. This is the scope of the inspection
that is contemplated here?

5

A. You have that now. Yes, sir.

6

Q. You would not disagree with that?

7

A. No.

8

THE CHAIRMAN: What Mr. Brisset
said there was that the examination about the officer
should take place every trip. Every time a ship
calls in Montreal.

9

10

11

MR. BRISSET:

12

Q. That is correct.

13

A. Yes, sir.

14

Q. Would you not think this would be
better than just issuing on one occasion a B certificate
to one man after which the ship would be qualified so
long as that B certificate is on board?

15

16

17

A. You are speaking now and referring
to the ship and not to the man?

18

19

Q. I am speaking now of the position
where a ship would come up to Montreal and be permitted
to enter the Seaway and to navigate the open waters
without a pilot provided she has on board one man with
a B certificate?

20

21

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23

A. It appears that that is the present
practice, yes.

24

25

Q. Would you not think that what has been
advocated by the Shipping Federation and is still being
advocated by the Shipping Federation better by way of
assistance than just the issuance of that B certificate

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1
2 as it is done today?

3 A. And that is?

4 Q. I have just described it: inspection
5 of equipment, personnel, accommodation?

6 A. Well, I am led to believe that is
7 what is being done today. Isn't that the way it
8 operates today?

9 Q. That is your impression at the moment?

10 A. That is what I have been told.

11 MR. LANGLOIS: I wonder if Mr. Brisset
12 would allow me to ask a question at this stage to
13 make his line of questioning a bit more clear.
14 Would he mean by such a question that a ship lacking
15 any such equipment as mentioned should be refused
entrance to the Seaway?

16 MR. BRISSET: I would certainly say,
17 my lord, that the ship that has all the equipment the
18 witness mentioned out of order should be refused en-
trance into the Seaway.

19 THE CHAIRMAN: Even without anchor
20 bolts they are not going to get in the Seaway. It is
21 a requirement. It is a small item.

22 MR. LANGLOIS: They are allowed up
23 the Seaway with no gyro.

24 THE CHAIRMAN: I suppose the Seaway
25 Authority are not concerned with gyros. That is for
26 the Great Lakes, but not for the Seaway. You don't
need a gyro in the Seaway.

27 MR. BRISSET: If I might put my
28 question differently.



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MR. LANGLOIS: The gyro was mentioned by
my learned friend as one of the standard basic equip-
ment.

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3 Q. If I might put the question differently,
4 Captain, do you not think it important that there should
5 be before a ship is allowed to enter the Seaway a check
6 of her equipment, whatever might/decided as the standard
7 minimum equipment, to allow the ship to go on? I am
8 not asking you to say at the moment what it should be
9 but when it is decided what it should be would you
10 not think that an inspection of such equipment would
11 be a good thing to have before the ship goes up the
12 lake?

13 A. Yes, I believe an inspection of the
14 ship -- I believe that would be satisfactory.

15 Q. Now, Captain, you told us that you
16 served on foreign-going ships during the war?

17 A. Well . . .

18 Q. Did I understand you correctly?

19 A. I served in the American flag vessels
20 during World War II -- deep sea American flag vessels.

21 Q. What was your rating then, because I
22 estimate you must have been quite young since you are
23 only forty-two?

24 A. Able seaman.

25 Q. How many years did you so serve?

26 A. I think approximately three. I would
27 have to look at my discharges.

28 Q. Where did you sail? Was it all over
29 the world or just on one particular run?

30 A. I sailed pretty much all over the
world.

Q. After the war I understand that you
had employment with the Columbia Transportation Company?



1

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A. Yes.

3

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Q. What kind of ships were the ships
of this company?

5

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A. Predominantly I was in the crane type
vessel with the magnets and buckets to discharge steel
and scrap.

8

Q. What was your normal area of trading?

9

10

A. Normally we were down in the Lake
Erie and Welland Canal and Detroit River and Saginaw
Bay -- down in this area.

11

Q. What was the size of those ships?

12

13

A. I think the smallest one was the
EARWIG, around 346 feet, 52-foot beam, 21-foot draught.

14

15

Q. You said you came through the Welland
Canal?

16

A. Quite frequently, yes.

17

Q. To discharge where or load where?

18

A. Hamilton, Toronto, Thorold.

19

20

Q. And that was until 1958 when you came
ashore in Duluth?

21

22

23

A. No, in 1956 I left the Columbia
Company and went with Cargo Grain Company and served
on the HARRY R. JONES trading between Duluth and Oswego
and New York through the Welland Canal.

24

25

Q. What is the last time you came through
the Welland Canal; what year?

26

27

A. July of 1962. I was master of the
steamer OLYMPUS, the Greek flag vessel.

28

Q. And you came down to where?

29

A. Well, it is quite an odd situation.

30

30



1
2 In 1962 we had quite a drop-off of trade in July in
3 the grain business in Duluth. It had fallen off
4 appreciably and there was very little work for pilots.
5 I received a call from the owners of this ship from
6 New York, the Mentos Company, who asked if I could
7 bring this ship from Toronto to Duluth. I went to the
8 pilot pool and asked if there was a chance for me
9 to take about seven days off to do this work. I
10 contacted the United States Coast Guard and said:
11 "Is this feasible?" And in Duluth ---

12 Q. I do not want to go into too many
13 details. I just want to know from where to where you
14 went with that ship.

15 A. Well, Toronto to Duluth.

16 Q. From Toronto to Duluth?

17 A. Greek liberty.

18 Q. That was in 1962?

19 A. Yes.

20 Q. Had you been through the Welland Canal
21 prior to that after you went ashore in 1958?

22 A. No.

23 Q. So you had not made a trip through the
24 open waters of Lake Ontario for four years before you
25 made that 1962 trip?

26 A. Yes.

27 Q. Did you have to get a pilot through
28 Lake Ontario?

29 A. Yes, sir.

30 Q. You were no longer competent?

A. That is correct. The law stated ---



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Q. Competent or qualified?

3

A. Qualified.

4

5

Q. So you do not feel today that if you are asked to do the same trip that you did in July 1962 you could find your way from Toronto to the entrance of the Welland Canal without having a trans-lake pilot holding your hand?

8

9

A. Within the meaning of the law I do not think I could.

10

11

Q. Forgetting the law do you feel you would be competent to do it?

12

A. I live by the law.

13

14

Q. So living by the law one day you are competent to go through Lake Ontario and the following day you are not because the two years have expired? That is the way you live as a pilot?

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A. To be more specific, Mr. Brisset, the law states in the United States on my licence that I am a competent first class pilot and master of any gross tons for the waters of -- and then it includes everything from Duluth to Gary or Buffalo or Black Rock Canal and Cape Vincent.

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The law also states that on my certificate of registration I am only qualified to be a registered pilot between the waters of Duluth, Sarnia and Chicago. This is another aspect of the law, as I would like to point out again, and I do not mean to be funny; I do not mean to be smart. I only wish to state that when there is a complexity in the law of this nature which I do not understand you can



1
2 reasonably see why it is always necessary for pilots
3 to seek legal aid.

4 Q. I think you told us you had an A Class
5 pilot's licence -- I am not speaking of your registra-
6 tion now -- A Class pilot's licence qualifying you down
7 to Cape Vincent; is that right?

8 A. Yes.

9 Q. Have you ever been down to Cape
10 Vincent?

11 A. I was to Ogdensburg, yes.

12 Q. When was that?

13 A. 1939.

14 Q. If you were to go down to Cape Vincent
15 -- forget that you are a district pilot now -- on a
16 lake ship, do you think you could do it as a master?

17 A. You are asking a question that would
18 probably ---

19 Q. I am asking you if you can do it.
20 Do you think you could find your way to Cape Vincent?

21 A. Let us put it this way: I know of
22 instances where the master of an American flag ship has
23 a licence to go down this far, but he takes a pilot too.
24 Competency is one thing and regulations are another.

25 Q. I was, of course, speaking of your
26 A Class licence as a pilot and putting you on a lake
27 ship.

28 A. I am referring to an A Class ship, say
29 of the size of the IRVIN S. OLDS, where they retain
30 pilots to give them assistance down to ---

Q. Am I to understand that when a fellow



1
2
3 down in the States gets an A Class licence it does
4 not at times mean very much; is that what you mean,
5 from the point of view of his capabilities and com-
6 petency?

7 A. No, it is not so much competency
8 or his incompetency in a district. It is usually
9 company policy. Companies like to be very concerned
10 about the safety of their vessels or despatch of
11 their vessels and they take extra little precautions
12 by providing more help for the captain in this area.
13 They realize the captain is up quite a bit of time
14 and no matter what your licence reads a man who is
15 tired is not competent.

16 MR. JACQUES: Have you sometimes
17 wondered how foreign-going masters find their way around
18 the seas of the world without having a pilot to help
19 them?

20 THE WITNESS: By the same token I
21 would just like to go back and say what I have said
22 before. If the government of their nation found they
23 are competent to pilot or take a ship wherever they are
24 supposed to take it, then it should not be for a man
25 like me to judge whether they are competent or not.

26 MR. JACQUES: So I take it if a govern-
27 ment or both governments, yours and ours, were to state
28 that henceforth there will be no pilotage in the lakes
29 and that anybody can be free to go in and out as they
30 wish, that you would consider that all masters plying
the waters of the lakes for the first time would be
competent because the government has said so?



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THE WITNESS: Apparently so, yes.

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MR. BRISSET:

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Q. Now, Captain, I want to go back to your first recommendation on page 1 of your brief and would like to make sure that I fully understand this recommendation. You say that all ocean ships -- if I may paraphrase your recommendation -- should have on board when transitting the lakes, whether it be the open waters or the restricted waters, either a pilot or -- and that is what I want to come to -- at all times there be on the bridge of a vessel an individual who is a regular watch-keeping officer of the vessel and who possesses the following qualifications, and then you relate the qualifications. One of them is: "Such man must have had two prior trips in the specific waters on which the vessel is sailing."

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Do you not agree with me, Captain, that if this recommendation is to have any practical sense it will mean that on all ocean vessels going into the lakes the four or five officers who take watches on her, including the master, must have had two prior trips on the lakes, because of course you cannot expect one man to stay up twenty-four hours every day? Is that what the recommendation means? Do I understand it correctly?

25

26

A. You cannot expect one man to stay up twenty-four hours a day, no.

27

28

29

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Q. So it means that all the watch-keeping officers -- and as you know it is usually the four-hour watch system that is in force -- all the officers on



1
2
3 board every foreign-going ship entering the lakes
4 must have had two prior trips?

5 A. Well, you must have a man who is
6 available if he is a watch-keeping officer.

7 Q. You say on the bridge of the vessel
8 in your recommendation. Therefore he must be up there,
9 not in his bunk. I repeat -- "At all times there be
10 on the bridge of the vessel an individual who is a
11 regular watch-keeping officer and who possesses the
12 following qualifications", including two prior trips
13 in the waters in which the vessel is sailing.

14 A. Well, maybe it is not clarified. By
15 that you are considered on the bridge of a vessel when
16 you are available for duty at any time. By that I
17 mean if I am a pilot and I go up and put my feet up for
18 a couple of hours, in a sense I am still on duty. I
19 am paid for the twenty-four hours. A watch-keeping
20 officer who stands the ⁴⁻⁸ / hours, when he is through he
21 goes below and that is the end of it and you will
22 see him again at four in the morning. Now, do they
23 call this man out whenever they arrive at a situation
24 that requires the competency of a B certificate? This
25 is a question I cannot answer.

26 Q. Well, then, let me ask you this: Does
27 your recommendation imply that the present requirements
28 should be greater? You know what are the present
29 requirements, that you have on board -- not on the
30 bridge -- a man with a B certificate. Or do you want
more than that? That is what I am driving at.

A. Yes. You should have, not on board



1
2 but on the bridge, a man when you arrive at a situation
3 who has a B certificate. It is of no value to give a
4 B certificate to the third mate and then have on the
5 bridge the second or first mate when you arrive at a
6 situation which requires his skill.

7 Q. The practical result of this is that
8 to qualify a ship all her officers must have had at
9 least two trips?

10 A. Either that or the master.

11 Q. There should be enough personnel
12 having had two trips of previous experience on the
13 lakes before to be able to place at least one of these
14 men at all times on the bridge; is that what you mean?

15 A. In or near about the bridge, yes.

16 Q. You would agree that if he is in the
17 chart room that is close enough?

18 A. If he is available to come to the
19 bridge.

20 Q. Would you agree with me that for
21 practical purposes, knowing how personnel changes on
22 ocean vessels and the fact that they do not trade
23 regularly in the sense that the lake vessels have in
24 the lakes -- would you not agree that this in fact will
25 mean that on all or practically all ocean ships going
26 into the lakes, there will have to be an open water
27 pilot? That is the practical effect of your recom-
28 mendation?

29 A. No, I would not agree with that.

30 Q. Do you foresee that there would be on
all ships enough licensed personnel able to keep watch



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3 that can meet in particular this two-trip prior require-
4 ment?

5 A. Yes, I would say so.

6 THE CHAIRMAN: Are you going to change
7 to another subject, Mr. Brisset?

8 MR. BRISSET: Yes, sir.

9 THE CHAIRMAN: We will adjourn now
10 until two-thirty this afternoon.

11 ---Luncheon adjournment.
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--- On resuming at 2.30 p.m.

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THE WITNESS: Yes.

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Captain Slocombe stated that the one trip requirement was correct, that it wasn't two trips; but I have since checked and I refer you to the Great Lakes Rules and Regulations, P.C. 1961-623, where it appears that the present regulations would require two trips on Lake Superior.



1 MR. BRISSET: Q. I am still on
2 recommendation number one at page one of your
3 Association's brief in which you list the qualifications
4 of the individual who must be at all times on the bridge
5 of the vessel as the regular watch-keeping officer
6 through the open waters; and comparing these re-
7 quirements, a, b, c, d and e, that you list there
8 with the qualifications required under the Canadian
9 Great Lakes Pilotage Regulations I find that there is
10 one appearing in the Canadian Regulations that does
11 not appear in your own, namely, that the individual
12 must hold a certificate or licence entitling him to act
13 as Master of a steamship on a foreign voyage.

14 Restricting myself to ocean going vessels,
15 this means that he must hold a Master's foreign-going
16 licence or certificate of competency. Is there any
17 reason why you left this requirement out in your own
18 recommendations, or am I to understand that it should
19 have been included?

20 A. I would agree that it should be
21 included in there.

22 Q. It should be included?

23 A. If it was left out I assume that
24 it has been an oversight.

25 Q. Now, keeping in mind that amongst
26 the requirements there is this additional one that you
27 must hold a foreign-going Master's licence, would you
28 agree with me that on most foreign ocean-going vessels
29 there is in most cases only one man holding a Master's
30 licence, namely, the Master himself, although, at times,



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Brisset

1 the first mate may also have a Master's licence?

2 A. I would believe that normally
3 the first mate does hold a Master's licence as well
4 as the Master himself.

5 Q. In other words, you have either one
6 or two but not more holding this Master's licence?

7 A. I would agree to that, yes.

8 Q. Now, if there is only one such
9 qualified individual on the ocean-going vessel, or two
10 individuals, would you not agree with me that it would
11 be difficult for them to be on the bridge for twelve
12 hours if there were two, or twenty four hours if there
13 was only one?

14 A. Probably for clarifications sake,
15 Mr. Brisset, availability in this sense for a watch-
16 keeping officer -- in this sense -- has two counter-
17 parts. The first is availability, to be there to
18 assume command in a situation that might arise.
19 This is one purpose of the B certificate and familiarity
20 with the rules of the road -- to be there, on hand,
21 when problems may arise; this man should be on the
22 bridge when that situation arises. Secondly -- and
23 again I cannot give you dates and times -- but I have
24 experienced where a watch-keeping officer was not a
25 licenced personnel and happens to be an unlicensed
26 man; so here again we leave the path of the B certificate
27 and we wonder who is the watch-keeping officer.

28 Q. In other words, you leave the path
29 of the B certificate to go to what I called earlier the
30



1 inspection of the vessel both from the point of view
2 of equipment and the competency of her personnel?

3 A. Yes, that is right.

4 Q. Now, Captain, just a general
5 question -- and I would like you to give your opinion
6 both personally and as the President of your Association
7 -- but, first of all, personally: Do you consider
8 that the masters of foreign-ocean-going vessels are
9 generally competent to navigate their vessels in the
10 open waters of the Great Lakes, for instance, from
11 Whitefish Bay to the entrance to Duluth Harbour,
12 to give one illustration?

13 A. I would say -- and this is
14 personally -- I would say -- I will speak as a citizen,
15 although not of Canada, of course -- I would say that
16 they are qualified to navigate the open lakes without
17 the assistance of an open lakes pilot, provided they
18 received a B certificate from the Department of Transport.

19 Q. Which includes the qualifications
20 that you have listed in your recommendations plus the
21 one that was left out?

22 A. Yes.

23 Q. Now, let us take as an illustration
24 again -- and using Lake Superior, since it is your own
25 area -- let us assume that you have a ship proceeding
26 from Whitefish Bay to Duluth and that the officer
27 who takes his watch on the bridge is somewhere in the
28 vicinity of a beam Michipicoten Island and he has got
29 to do his 4-hour watch which will keep him all the time
30 in open waters. Do you feel that he is better



1 qualified to lay his course and keep his watch if he
2 has made no trip before on that course, one trip, two
3 trips, or three trips?

4 A. Would you please repeat that.

5 Q. Do you feel that the fact that such
6 an officer, who is called upon to take his watch in
7 the middle of Lake Superior, and standing a four-hour
8 watch, is not qualified to do so if he has not done
9 this stretch twice before?

10 A. According to the regulations, no;
11 if he has made two trips over the route, regardless
12 of what position the ship is in, so long as he has
13 traversed this area, in the eyes of the law he is
14 qualified, and we accept that.

15 Q. But what I am seeking is your own
16 opinion on the point, forgetting what the law and
17 the regulations say for the moment?

18 A. AS I say, I live by the law and
19 the regulations and therefore I must adhere to them;
20 and this is what we must abide by.

21 MR. JACQUES: May I remind you that
22 this Commission has been set to inquire into the law,
23 to find out whether it is adequate or not, and I think
24 that the question was quite proper. We are seeking
25 the opinion of experts in matters of fact. These
26 experts may consider that the law is no longer suited
27 to the problem; but there is no reason, if the law
28 is not suited, that we should abide by it. We are
29 seeking to change the law.

30 THE WITNESS: I would say, on the



1 question being put, as such, that we don't have
2 any objection to the law as it is now, that is, with
3 the two trips and receiving a B certificate; but we
4 just want to bring out the point that when a B
5 certificate is issued, as I brought out today, where
6 a ship can go into Lake Michigan, to Chicago, and it
7 has been there several times and then probably on
8 his seventh or eighth trip in a subsequent season he
9 is assigned to go to Green Bay -- well, there is the
10 point that maybe, so far as the law is concerned, the
11 law states that he is qualified to go through there,
12 yet the Master, on his own volition, chooses to ask
13 for aid to go to that area that he hasn't been in
14 before, and this leads us to believe that somewhere the
15 law is not adequate.

16 MR. LALONDE: Aside from that point,
17 Captain, in connection with my previous question,
18 would it be fair to say that, in your opinion, a man --
19 an officer -- could ply some areas of the Great Lakes
20 without having been there before, but that the point
21 which you might wish to stress is that you never know
22 which area which man will cover when he is on the deck?
23 Would that be fair? I don't want to put words into
24 your mouth. I would like you to give us your opinion?

25 THE WITNESS: Well, you are speaking
26 of open water pilots?

27 MR. LALONDE: Yes; I would imagine that
28 you could take a stretch of the lake and any master
29 mariner could go from point "A" to point "B" twenty
30 miles wide and in deep water, and they wouldn't need a



1 pilot for that?

2 THE WITNESS: Yes, I agree with you
3 there. They can lay out a track or a course and
4 adhere to the course; this is a common practice for
5 all mariners throughout the world. This is acceptable.
6 I don't disagree with that point.

7 Secondly, we enter into another phase,
8 that we are not navigators; we are piloting, in essence.
9 The navigator uses stars, the pilot uses terrestrial
10 navigation -- his recognition of terrestrial points.
11 Does he recognize these points? And another thing is
12 if, in his own mind, he wants to have a pilot in an
13 area that he is allowed to go without a pilot --
14 this speaks for what I have just said -- familiarity --
15 his recognition.

16 MR. BRISSET: Q. In other words,
17 what you are saying is that navigating in the open
18 waters is not piloting, but it is watch-keeping?

19 A. I would say that, yes.

20 Q. And you are not a watch-keeping
21 individual, but a pilot?

22 A. Well, yes, I would have to say
23 that also.

24 Q. Now, when you refer to ships taking
25 pilots through the open waters of Lakes Huron and
26 Michigan because they are going into Green Bay aren't
27 you meaning that they are taking the pilot through
28 Lake Huron and Lake Michigan simply because they need
29 him in Green Bay and not because they need him in Lake
30 Huron?



1 A. I would say you are correct, there,
2 yes.

3 Q. By the way, on this famous trip
4 on the OLYMPUS from Toronto to Duluth when did you
5 take the pilot?

6 A. I took the pilot at St. Mary's
7 River.

8 Q. Not through Lake Superior?

9 A. No; I was going to go through the
10 lake.

11 Q. Did you have a B certificate?

12 A. No.

13 Q. Did you know that you didn't
14 qualify because you have no foreign-going Master's
15 licence?

16 A. The first mate had one.

17 Q. If you hadn't had the first mate
18 you wouldn't have qualified yourself?

19 A. Yes.

20 Q. And you would have had to take a
21 pilot?

22 A. That is correct.

23 MR. JACQUES: Apart from certificates,
24 did you feel that you were qualified to take the ship
25 across the lake?

26 THE WITNESS: Yes, I did.

27 MR. LALONDE: You were a registered
28 pilot for the District at that time?

29 THE WITNESS: Yes, I was. But, as I
30 say, this didn't excuse me from taking a pilot. This



1 was the most unusual thing that has happened to me in
2 my life, because I arrived in Toronto and I signed on
3 as Master of the ship for that particular voyage and
4 as Master I couldn't duplicate -- I don't believe that,
5 under the law, or, at least, I never allowed myself
6 the privilege that if I was a Master I could not also
7 be a pilot. By the same token when you refer to
8 the legal type of problem, these people are masters
9 and they have a licence for these waters, but under
10 the law they cannot proceed through the area, and this
11 applies to me just as well. Even although I am
12 registered for the District I cannot be a Master and
13 I cannot be a pilot, so in order to comply with the
14 law, or not to fracture the law, I chose to use the
15 pilot at the time.

16 MR. BRISSET: Q. Being a law-abiding
17 citizen, you would have taken a pilot across Lake
18 Superior if you had not had your first mate with a B
19 certificate?

20 A. Yes, I would.
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1 Q. You have spoken, Captain, of
2 pilotage during the course of your evidence this
3 morning, and have stated that ships at times were taking
4 pilots through Lake Superior because they needed the
5 pilot at Red Rock. In other words, as in the case
6 of Green Bay, they were not taking the pilot because
7 they needed one across Lake Superior but because they
8 needed one in Red Rock?

9 A. Yes, sir.

10 Q. That is correct?

11 A. Yes, sir.

12 Q. In ports like Red Rock, a port which
13 is not as active as Duluth or Chicago, where there
14 may be one or two ships coming in a week --

15 A. Yes. Not that often.

16 Q. Not even that often?

17 A. No.

18 Q. Would you find some merit in a
19 system like the one that was established in the port of
20 Hamilton, for instance, where a harbour-master,
21 familiar with the port might do some pilotage in
22 addition to his other duties when a ship comes in and
23 needs a pilot?

24 A. No, I would find no merit in that
25 at all.

26 Q. Why; would you think that the
27 harbour-master, restricting his activities to the port
28 of Red Rock, since I have used that as the illustration,
29 doing his pilotage at all times there, being familiar
30 with the local conditions from day to day because he



1 stays there, would not be as competent as a pilot
2 coming from Duluth or Chicago?

3 A. I do not speak of competency again.
4 You and I seem to be going around and around this word
5 "competency", that I will refrain from passing judgment
6 on anybody's competency.

7 It would be an injustice to our
8 Association to have any pilotage done within the
9 confines of our district if it couldn't be done by
10 the pilots of our pool. Red Rock is adjacent to
11 Fort William and Port Arthur, in the proximity of that
12 area, and this port could be easily serviced out of
13 the Fort William-Port Arthur pool.

14 Q. Perhaps I have used the wrong
15 illustration since you tell me that Red Rock can
16 easily be served by your pilots. Are there ports on
17 Lake Superior that it would be difficult for your pilots
18 to serve because of the infrequency of vessels calls
19 there and the distance between that particular port
20 and the home base of the pilot?

21 A. No. When you look at the
22 geographical size of our Association, of our pool, we
23 are from Duluth to Chicago and over to Port Huron
24 and all of these ports, including Georgian Bay ports,
25 and with proper communications and with proper
26 notification of a potential move, we can cover all these
27 areas.

28 We have train schedules, plane schedules,
29 and means of transportation given to these areas.
30 But the backbone of all piloting pools is despatch and



1 communications. Without this you have a breakdown,
2 and when you have your breakdown in this area, this
3 is an additional expense not only to the ship but to
4 the pilot.

5 Q. In other words, you see no problem
6 for your 16 pilots to serve this large area?

7 A. There should not be any problems.
8 Everything that is from, say, Detour northward in this
9 area is covered very thoroughly. The day to day
10 movement and day to day movement of ships and pilots
11 is covered right to the hour, but when we start getting
12 down here we start to lose --

13 THE CHAIRMAN: What do you mean by
14 "here"?

15 Q. In District No. 2?

16 A. No, District No. 3. Don't take
17 that away from us. These two lakes are overlapping
18 districts, 2 and 3.

19 MR. LALONDE: That is Lake Huron?

20 THE WITNESS: And Lake Michigan, and
21 when we get below Detour into these lakes here, our
22 communication systems and transportation falls off
23 appreciably because of lack of communication with the
24 ships that are coming in and lack of a proper pilotage
25 despatching station at the Chicago area.

26 There isn't the day to day follow-up
27 of ships or the anticipated moves moving out of the
28 area from here, from Lake Michigan out into Lake Huron
29 and back to Sarnia. This is where you will find the
30 majority of your breakdown in the whole pilotage system



1 in the districts of 1, 2 and 3.

2 Now, if I may elaborate for a minute --

3 THE CHAIRMAN: Yes, of course.

4 THE WITNESS: From Cornwall or Snell

5 Lock to Cape Vincent you have a run either one way or

6 the other with an occasional stop maybe at Prescott

7 or Ogdensburg. Your Welland Canal and Sarnia district

8 is a transit district. It is up and it is down

9 with occasional stops in the ports. But when you get

10 north of Sarnia you fan out into either Lake Huron

11 or Lake Michigan or Lake Superior. These are your

12 terminal districts, and when the ships arrive at the

13 end of the line, that is it. They load and from

14 there they start back again.

15 So everything that may go through the

16 Welland or go through the Detroit and St. Clair River

17 does not necessarily mean we will get in the St. Mary's

18 River and the Lake Superior area.

19 Our economics and our Association is

20 dependent upon grain predominantly. General cargo

21 has increased, but it would not be enough to sustain

22 a pilotage pool. Our pilotage pool, if I may put

23 it this way, in Duluth last year there was a total of

24 200 ships in the season. I believe it was around

25 115 or 118 in Fort William and Port Arthur. There

26 are periods at the outside when the ships flock right

27 in at the beginning of the Seaway. We are busy in

28 May and June and July we start to taper off. The

29 harvest, we have to take this in account, in August

30 and September, and then the peak starts to build up



1 again.

2 As our pilots probably are not so well
3 employed in the middle period, we have been able
4 fortunately in the past to syphon off the overflow of
5 pilots into Lake Michigan and Lake Huron areas in
6 order that they can be compensated for working or to
7 seek employment. Then fortunately as the season gets
8 towards the end, this business is more stabilized and
9 we can use pilots back up in this area.

10 MR. LALONDE: "This" and "that"?

11 THE WITNESS: I mean Lake Huron and
12 Lake Michigan.

13 MR. LALONDE: You can use them more
14 in Lake Superior --

15 THE WITNESS: That is correct. Our
16 needs for pilotage will increase greatly from now until
17 the end of the season in this area, in the Lake Superior
18 area, because of the fact that the ships are coming
19 in for their final voyages and they are trying to
20 book as much grain out of the Lake Superior area before
21 the end of the season.

22 Q. You have told us this morning,
23 Captain, that the Shipping Federation was supporting
24 your Association and pilots associations in general,
25 I think, in advocating a port tariff rate structure,
26 or vice versa, that you were supporting the Shipping
27 Federation?

28 A. No, I believe Mr. Colley brought
29 that particular point up at the last hearings in
30 Detroit.



1 Q. There is no disagreement between
2 the shipping interests and the pilots on this point?

3 A. No, definitely not.

4 Q. The only area of disagreement is
5 that you do not believe that ports that are not too busy
6 should or could be serviced there by part time local
7 pilots of the local harbour authority? That is
8 where the disagreement comes?

9 A. I wouldn't agree to that, no.

10 Q. Would you support servicing ships
11 in ports where there is not too much activity by local
12 pilots, part time employees, for instance, of the
13 harbour authority?

14 A. We would prefer to serve all ports
15 in our district or area with the pilots that we have
16 available in our pool, and we would make all the
17 necessary arrangements to coordinate port pilotage
18 in any area that is given to us.

19 Q. Captain --

20 A. Excuse me. The reason I make
21 that statement is because of the fact that little
22 speech I just gave about the economics of our district
23 in comparison to the transit districts. Ours is
24 based strictly on what the farmer plants in Saskatchewan
25 or North Dakota; not about the transit through the
26 canal into Cleveland, moving machinery and general
27 cargo. Ours is more of a bulk type revenue that we
28 receive, and if we lose that we have to go fishing
29 for money in this other area.

30 Q. Captain, do you consider pilotage



1 through the Soo River as a difficult bit of work?

2 A. Yes, I do.

3 Q. It does mean quite a strain on the
4 pilot, does it not?

5 A. Yes. You are tired after you
6 are through.

7 Q. And I think you said this morning
8 that the normal pasage was about 8 hours?

9 A. About 8 hours.

10 Q. You also told us that it was not
11 unusual for one single pilot to do three trips in a row?

12 A. I have done it.

13 Q. Now, do you consider that to be
14 safe to have the one and only pilot available there
15 and do so many consecutive trips in difficult waters?

16 A. Mr.Brisset, we do not have just one
17 pilot in the St. Mary's River. We have six pilots,
18 and it is not unusual sometimes for a couple of them
19 to have to leave to take a ship across the lake and
20 the remaining just get off one and on to another.
21 This is not a job for any one pilot. Now, you asked
22 if it is safe.

23 Q. Yes?

24 A. It is not very safe for a pilot
25 to refuse to take a ship up river if the ship owner
26 is screaming because his ship is being delayed.

27 Q. I see. So you are doing it
28 because you are forced into it?

29 A. No, we are never forced to do
30



1 anything. Any time a pilot takes one ship through the
2 river and he comes back and says he is too tired
3 to work, he is allowed to go and take his rest period,
4 and then come back and take the ship. But we have
5 an esprit de corps in our Association; we do not
6 take time off to go to bed when the ships are waiting
7 to be moved. We keep moving them until they are
8 cleared up or the situation is resolved, and then
9 the pilot can rest.

10 Q. Would I be right in saying you
11 are faced with this situation of having to do consecutive
12 trips in the Soo River because the other pilots
13 in your association are all over the place cruising on
14 the open waters of the Great Lakes?

15 A. Not particularly cruising on the
16 open waters, but they may be gainfully employed in
17 the port of Port Arthur and Fort William and Duluth
18 and Superior, and probably just about ready to take
19 one ship out and take it through the river also.

20 Q. Captain, your Association has had in
21 the past some disagreements I understand with the
22 Administrator, Mr. Meschter?

23 A. Yes, we have.

24 Q. Which is quite normal. I am not
25 saying that to be critical, but I want to recall one
26 particular incident, if you do recall it. Wasn't
27 there disagreement at one stage between your
28 Association and Captain Meschter because there were
29 quite a number of ships requiring pilots in the harbour
30



1 of Duluth, and Mr. Meschter thought that the pilots
2 that were available should rather be sent across
3 the lakes because there were also demands for trans
4 lakes pilotage, and your Association took the stand
5 that it was much more logical and safer to keep the
6 pilots to do real piloting in the harbour rather than
7 to send them across the lake?

8 A. You are correct in that statement.

9 Q. Has this situation been remedied now?

10 A. No. Mr. Meschter still takes
11 the stand that the ship with the B certificate should
12 not be given pilotage service in any preference to
13 the ship without a B certificate. To clarify that,
14 if two ships were in port, one with a B, and one a
15 non B, and the ship with the B certificate called and
16 asked for pilot service at 4.30 in the afternoon and
17 said "Take me from Elavator PV to Occident," and
18 the ship without a B called at 5 o'clock and said
19 "Take me from Capital to General Mills", and it is
20 inconceivable we can make this move in half an hour.
21 Therefore we should call the agent, tell him that the
22 ship must go -- the B ship must go without a pilot
23 and we should service the ship with the B certificate.

24 MR. LALONDE: Service the ship with
25 or without the B certificate?

26 THE WITNESS: Without the B certificate.
27 Now, we have another conflict of interest. It seems
28 somewhere in the regulations that ships will be serviced
29 on a first come first served service basis. The
30 Master of the ship required pilotage; we gave it to



1 him, and the one that called second either waited or
2 there was another pilot to service it.

3 Q. In other words, if you had a ship
4 in the harbour at Duluth that wants to move from one
5 elevator to another and requires a pilot, and you have
6 another ship that wants to leave and go down the lakes
7 and has no B certificate, you have to assign -- if
8 she is the first one to call -- the only pilot that
9 might be available to go across the lakes rather than
10 move the one that is in the harbour.

11 A. We have an agreement with Duluth-
12 Superior Marine Association that if a case or situation
13 of that type ever arises, that we would call them and
14 forego the ship leaving port until the ship harbour
15 move is made, and then put the pilot back on the ship.

16 Q. In other words, you will delay
17 the vessel that is to have a pilot in the open water
18 because she has no B certificate until the first move
19 is made?

20 A. We have that agreement with the
21 Marine Association.

22 MR. LALONDE: Would you expand on what
23 this Marine Association is?

24 THE WITNESS: That is composed of all
25 the agents in the ports of Lake Superior.

26 MR. LALONDE: You have an arrangement
27 with the agents that they will settle this between
28 themselves?

29 THE WITNESS: A phone call settles it.
30 Pick it up and say we have to make this move.



1 Q. Captain, I want to leave the open
2 waters now and I want to ask you just a few questions
3 regarding your Association. You have told us of
4 pilots becoming shareholders in your Association?

5 A. Yes.

6 Q. Do you permit outsiders -- I mean
7 persons who are not pilots -- to be shareholders in
8 your Association?

9 A. Our corporate structure, I believe,
10 is built so that we could have outsiders, say, people in
11 a management position such as Mr. Kuefner. If
12 the shareholders so decide, they can issue stock.

13 Q. Do you have any at the moment?

14 A. Outstanding stockholders?

15 Q. Outsiders who are not pilots?

16 A. Non-pilots?

17 Q. Non-pilots?

18 A. I don't believe so.

19 Q. Perhaps Mr. Kuefner could answer
20 that.

21 A. He could, but I am sure we don't.
22 Excuse me a minute, Mr. Brisset. The reason I was pre-
23 cautionary in answering your question is that we have
24 three retired pilots, former pilots who are retired,
25 and their stock has not been reclaimed as yet, and will
26 be reclaimed at the December meeting. But they were
27 former pilots, you see, and their stock will be turned
28 in in December. They will be paid for their stock.
29
30



1 Q. Are there any organizations or
2 corporations distinct from the Association that have
3 some relation with the Association -- for instance
4 corporations that might own boats or operate various
5 services for the benefit of the Association?

6 A. I think within the meaning of
7 our rules we have we could set up our own pilot boats,
8 but we do not have any at the present time.

9 Q. You do not have any at the present
10 time. Captain, you filed as Exhibit 1378 a labour
11 contract between the Lake Superior Pilots' Association
12 and the Upper Lakes Pilots' Association District No. 3.
13 What is the Upper Lakes Pilots' Association District No. 3?

14 A. That is the name of the Union.

15 Q. In other words this is a local of
16 the I.L.A.?

17 A. That is correct.

18 Q. When did that local get its charter
19 or incorporation as such?

20 A. March 1st, 1964 they received their
21 independent charter from the I.L.A. Previous to
22 that we were under the auspices of the local 1366.

23 Q. And what was the local 1366 --
24 its name?

25 A. That I do not know; I cannot tell
26 you that. We were a division of local 1366, which
27 included the longshoremen.

28 Q. It was mainly longshoremen, was it
29 not, that 1366?

30 A. Yes, mainly.



1

2

CROSS-EXAMINATION BY MR. JACQUES

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Q. Will you place your brief before you and turn to page 15, the top paragraph? I should like you to explain a statement which you make, and I quote:

8

9

10

"The pilot is not compelled to work and no special rules or regulations are required to force his presence on the job."

11

12

13

14

15

I thought that the American authorities had adopted a rule similar in substance to the Canadian rule to the effect that pilots must be available at all times and must take assignments as directed by the despatchers.

16

A. Yes, they are.

17

18

19

Q. They are. Would you explain your statement in the light of those regulations to which you agree?

20

21

22

23

24

25

26

27

28

29

30

A. This morning I made a statement that although you probably have had many people appear before this Commission to tell you that a central control or central despatching area would be the most feasible and cheapest way to run pilotage on the Lakes, I countermanded that by saying that when you are remotely connected with the pilots and the immediate work that they must be doing you can lose pilots. If you have a pilot stationed down in the Detroit area or down in this area and you have pilots often wardering up in the Lakehead and Duluth area and no immediate contact



1 with pilots, you may lose them.

2 Q. What you mean in fact is that
3 nobody has to push you to do your job? Although
4 there may be an obligation to do your job, a legal
5 obligation to do your job, you do not have to be
6 kicked around to do it; you do it willingly?

7 A. Let me say this then: With all
8 due respect to our fellow Canadian pilots who work
9 very hard, supposing we had a pilot X who was paid by
10 the day and got on a ship and it just took off and
11 he was not heard of for a week or so, because of the
12 fact that there was no local despatching station to
13 keep in contact with him you could lose a pilot in this
14 way; you would lose his services. Whereas where
15 you have an incentive for a man to work because he is
16 getting paid for what he has done, you just let a
17 man lay around for about a day and you are going to
18 hear a lot of squawking.

19 Q. With respect to despatching can
20 you explain the various sorts of despatching that you
21 have in your district?

22 A. Would you refer that to Mr.
23 Kuefner?

24 Q. Yes. With respect to the
25 corporate status I should direct my question to Mr.
26 Kuefner.

27 Equalization of income; should I ask
28 you that question?

29 A. I think Mr. Kuefner could better
30



1 answer that.

2 Q. The sharing of the expenses, also?

3 A. Yes.

4 Q. With respect to recommendation No.
5 3, increased authority at local level, I am afraid
6 I did not quite follow you when you gave evidence
7 on that section of your brief. In what sphere would
8 you wish to see an increase of authority at the local
9 level, and what do you call the local level?

10 A. Well, the body of this question,
11 I believe, would be better answered by Mr. Kuefner,
12 but briefly "local level" means that the pools like
13 District 3, our pool, on the day-to-day operation of this
14 pool, the despatching, the sending of the pilots from
15 one area to another to be ready to be assigned for
16 anticipated traffic that we know is coming, the
17 shifting of pilots around to, say, -- like at the
18 present time Duluth-Superior harbour has very little
19 work and Fort William and Port Arthur has quite a few
20 ships; we try to shift the pilots up in this area that
21 are down in their earnings so that they can start
22 boosting their earnings up again. So we can more or
23 less equalize our pay for all the pilots.

24 Q. Do you not enjoy that right now?

25 A. Not totally, no.

26 Q. Would you explain your statement?

27 You say that you do not enjoy that right totally.

28 What is lacking, or what would you like to have which
29 you have not got today?

30 A. Well, we would like to be left alone



1 on situations like this. I think it would be more
2 for us to decide to equalize our own pay, to work
3 towards standardization of salaries, rather than have
4 someone else tell us that we have to do it or try
5 to shift the pilots around for us.

6 Q. Who does that?

7 A. Well, Mr. Kuefner will answer that
8 for you then.

9 Q. To come back to a problem which
10 has been mentioned quite frequently, at page 16 of
11 your brief, and I start reading at the bottom of page
12 15:

13 "Without the slightest criticism
14 of the Canadian pilots who have been assigned
15 to District 3 it should be recognized that
16 there are some difficult problems in meshing
17 the civil servant with the independent pilot."
18 It has been mentioned quite frequently that nobody
19 has been able to pinpoint what the difficulties were.

20 A. I think Mr. Kuefner could answer
21 that.

22 Q. Again on page 16 recommendation
23 No. 5 -- increased communication among interested
24 parties -- you say that the members of your Association
25 plan to establish and maintain a closer contact with
26 shipping representatives and hope that this can be done
27 in conjunction with the Canadian pilots operating in
28 the Great Lakes. What precisely do you have in mind?

29 A. Well, fortunately we from time
30 to time have some dealings with Captain Matheson and



1 he had worked very hard in trying to increase the
2 efficiency of communications with the associations
3 so that we can minimize delays or unnecessary travel,
4 and we can do this between ourselves -- I mean, between
5 the associations or with Captain Matheson.

6 Q. I am sure the Commission realizes
7 that, but that is not the point. We should like to
8 know exactly how you plan to do it. What do you
9 plan to set up -- I don't know -- a joint standing
10 committee of pilotage with members appointed by the
11 shipowners and by the pilots?

12 A. First, what we would like to do
13 and what we anticipate doing this winter is meeting
14 with District 2 and sitting down and trying to resolve
15 some of the problems that the two districts might have,
16 and it is at the invitation ---

17 Q. Yes, that is District 2; now with
18 the shipowners ---

19 A. The shipowners we deal with -- this
20 year we have not had any complaints about any excessive
21 charges or any charges at all, not one.

22 Q. So then am I right in understanding
23 that recommendation No. 5 is merely a wish on your part
24 that perhaps there be more exchange between the two
25 groups; it is not a desire to set up a definite
26 procedure for exchange of views?

27 A. We definitely want to set up some
28 means of better communication between shipowners and
29 shipping agents.
30



1 Q. But no work has been done to
2 achieve that?

3 A. This will be done this winter at
4 the District meeting in December. Our hands are
5 limited into what we can do to help cooperate with
6 District 2 in the Chicago area for despatching.
7 They have a unique situation there that we ---

8 Q. I am sorry, I am not talking about
9 the pilots of District 2; I am talking about shipping
10 representatives.

11 A. I am too.

12 Q. Yes, okay, go ahead.

13 A. We deal directly with ships'
14 representatives in Duluth. Our building is right
15 directly to the shipping agents in Duluth so there
16 is not too much of a delay in getting your money, you
17 know; you are dealing more direct. This is the same
18 that could be applied in Chicago or Milwaukee.

19 This kind of bears out something that
20 Mr. Brisset brought up about port pilotage. If
21 there is an intent or if there is feeling that port
22 pilotage should be a royalty, then it would be better
23 for the pilots and the ships' agents to work together
24 rather than try to deal by long distance to Montreal
25 or Washington to find out if it is or could have been
26 a correct operation. We do not have any problems if
27 we deal directly with the agents. We seem to have
28 more problems when we deal more with our government.

29 I think Mr. Kuefner could clarify this
30 a little better than I can.



1 Q. Now with respect to recommendation
2 No. 7 at page 17, I wonder if you might shed some light
3 on that comment, which I read ---

4 A. Well, let that stand for Mr. Kuefner
5 also.

6 Q. Now with respect to the physical act
7 of pilotage, based on your years of experience on the
8 Great Lakes what do you think would be the effect of
9 a year's absence from, let us say, the restricted water
10 area? What do you think the effect would be on the
11 pilot? Do you think he would be just as suited to do
12 his job as he was before? Do you think he would
13 have to make a few trips up and down the river in order
14 to become familiar again?

15 A. Pilotage is memory.

16 Q. What is that, sir?

17 A. Pilotage itself is memory and
18 habit and instinct. I think there is even a little
19 bit of an animal in us, because we do things and some-
20 times we know we do them and yet if you were to explain
21 it in detail, you cannot. So this particular type
22 of training is inbred and you may after a year's leave
23 of absence come back and maybe the first dock you make
24 your judgment might be off a little bit, but by and
25 large you never lose the instinct. I think you
26 retain it for the rest of your life.

27 Q. So to you it would have no
28 important or substantial significance, the year's leave
29 of absence?

30 A. Well...



1 Q. Let us not say a year away from
2 ships altogether; let us say a year not going into
3 the designated waters of your district?

4 A. No, I do not see that that has
5 any... I could use myself as an example. I was not
6 up the Calumet Lake for, I don't know, almost two years
7 and I received an assignment and I went over and I made
8 the move in Calumet Lake and everything went fine and
9 I was discharged and I left.

10 Q. Had you not found that the aids
11 to navigation had changed, that there were wharfs
12 where there used to be no wharfs and the channel
13 was not in the same place?

14 A. Well, fortunately the piers are
15 always put in a little bit further; they are not
16 extended out in the stream.

17 Q. But in the designated waters the
18 job is more difficult, I suppose?

19 A. A year's leave of absence would
20 not change that. Let us put it this way: During
21 the Seaway they closed off the West Neebish Channel
22 for about a year and when they opened it up again
23 they said: "Okay, go ahead and go." There was
24 no special training. We just put the ship in the
25 channel, started down and it was like it was before,
26 except that you watched yourself a little bit closer.

27 Q. I see. In your despatching you
28 try to equalize the work done by each pilot -- I would
29 not say money-wise but I would say according to the type
30 of work, say, work in the Sioux River or in the out-
ports or the lakes?



1 A. We have what we call areas of
2 assignment, and this is based on seniority; and the
3 areas of assignment are chose on the seniority basis
4 at the beginning of the year. Once you have chosen
5 your area seniority has no more significant value so
6 far as money is concerned. We did happen to have six
7 pilots in the St. Mary's River, three at Fort William
8 and Duluth-Superior and one pilot in Fort William-Port
9 Arthur.

10 Q. And how is the seniority established?

11 A. Whenever you start to work in the
12 Association.

13 Q. What about the Canadian pilots?

14 A. The Canadian pilots enjoy a greater
15 preference than the American pilots in that they take
16 part in whatever areas we take part in, whether it is
17 port pilotage, river pilotage or lake pilotage.

18 Q. So if I understand well, at the
19 beginning of the season the most senior pilot chooses
20 the area in which he wants to work?

21 A. Right.

22 Q. And then the next in line does the
23 same thing?

24 A. Yes.

25 Q. And who decides how many pilots are
26 in each area?

27 A. That is done by the pilots as a group.

28 Q. Let us take last year, for instance.
29 Will you tell us about last year?

30 A. There were six. Last year we



1 had six. We have...

2 Q. At the S o o River. Who decides
3 what the number will be?

4 A. Experience dictates this, and we
5 have been doing it since 1959; and six pilots, it
6 was decided, were sufficient to handle the traffic.

7 Q. So at the beginning of the season
8 it was decided that six was a sufficient number and
9 that six would be allotted to that area?

10 A. That is right.

11 Q. And what happened?

12 A. We bid for the areas on a seniority
13 basis.

14 Q. And the denior pilot chcooses?

15 Q. And if he says "No" you move on
16 to the next pilot?

17 A. Yes.

18 Q. And if he says "Yes" then that
19 is his district, and if the first six say "Yes" that
20 is it?

21 A. Yes.

22 Q. And if there are 15 -- or is it
23 14...?

24 A. 16.

25 Q. ...then, if the first ten say "No"
26 the remaining 6 have had it whether they like it or not?

27 A. That is correct.

28 Q. And during the year are you
29 allowed to change from one area to another?

30 A No.



1 Q. So if the most senior pilots don't
2 like river work but prefer lake work or port work then
3 the junior ones always do the river work?

4 A. Don't forget that the first man
5 was a junior one at the beginning.

6 Q. I quite realize that; but
7 eventually they climb the ladder of seniority?

8 A. Before you get off on a tangent
9 on this I would like to explain that the problem
10 is that it is not so much -- it is not predicated on
11 earnings; but when you look at that chart and you look
12 at the size of our district and if we threw 16 pilots
13 into the three lakes and said "Look, take your bags
14 in the spring of the year and go..." --

15 Q. I am not saying it is a wise move?

16 A. I am trying to explain.

17 THE CHAIRMAN: Yes; let the witness
18 explain.

19 THE WITNESS: We then have pilots
20 living all over. Most of us are family men and like
21 to establish ourselves so that we will be at one point
22 or another during the season.

23 Now, take myself, for instance. I
24 am in port; seniority dictates that I am in port.
25 That does not necessarily mean that that is where I
26 stay. When there are moves on at the port and there
27 isn't a lake pilot to do I take it down the river
28 to Port Huron and, under the joint pool working rules
29 I wait for 24 hours for another ship to take across
30 the lake.



1 Now, what of the Canadian pilots? We
2 have in our working rules very strict rules on
3 discrimination in nationality. Because of the fact
4 that they are civil servants and don't participate
5 as we do the most logical thing was to give them a part
6 in the three areas which we have. We give them the
7 St. Mary's River for one pilot; give them part of the
8 lake work which six of our pilots do; and essentially
9 our part of the port work which would be at Fort
10 William-Fort Arthur. We keep them in rotation.
11 After a period of time the St. Lawrence River lake
12 man goes to the river and the other man goes to Fort
13 William, and the Fort William man goes back on to the
14 lake.

15 Q So there is rotation?

16 A. They are rotated so that they
17 participate in all phases of our work, as we see it.

18 Q. In practice what happens when
19 the choice is made by the American pilots? Would
20 the senior pilots choose the river, the lake, or the
21 ports?

22 A. It depends on where he lives.
23 We have a senior pilot living in Detroit and he chooses
24 the St. Mary's River, and in June, when his children
25 are not at school, the whole family moves out to Detour
26 and they rent a summer home and they stay for three
27 months so that this man can see his family for part
28 of the season.

29 There are only five Americans in the
30 St. Mary's River, and the other spot is for the



1 Canadians; and the Fort William port is left open for
2 the Canadian pilot; and there is one left in the trans
3 lake roster to rotate these pilots to allow them to
4 participate.

5 I assume that you have got a report,
6 or some report that was made that there was not enough
7 participation in the in-district that we have. This
8 is just impossible. To have the district that we
9 have and to participate in every port that we have
10 cannot be done.

11 There are two things we have to hold
12 uppermost in our mind. First of all, equalization
13 of earnings with Canadian pilots. This is paramount...

14 Q. I was coming to that point?

15 A. This is paramount with us. We
16 have to make sure that the Canadian pilots are earning
17 and there is enough money being put back in to the
18 Receiver General.

19 Now, there are two things. Either they
20 want equal participation in all ports and no money,
21 or they can have the money and no equal participation.

22 Q Now, I show you a table giving
23 the total earnings and work load by pilots for the
24 1963 season for No. 3 District, filed as Exhibit 1215.
25 These are statistics issued by the Department of
26 Transport. Would you glance at them and tell me
27 whether at first blush you would agree they are fairly
28 exact?

29 A. Well, you know, statistics come
30 in pairs. Statistics which are beneficial for you are



1 not beneficial for me, and statistics which are
2 beneficial for me are not beneficial for you; so I
3 took the trouble of working mine out.

4 Q. Perhaps we could compare yours with
5 those of the Department?

6 A. Who do you want to talk about?

7 Q. Since we have not been in the habit
8 of mentioning names...

9 MR. LALONDE: Certainly names can be
10 mentioned. This is not filed as confidential.

11 MR. JACQUES: Q. Let us take your
12 case?

13 A. I would rather take a Canadian pilot.

14 Q. Let us deal with your case last
15 year. You had 170 assignments, according to the
16 Department of Transport; is that correct?

17 A. Yes.

18 Q. You did 74.2 hours of pilotage in
19 designated waters; is that correct? You may check
20 your own statistics.

21 A. Mine are broken down differently.
22 As I say, what benefits you doesn't benefit me. I
23 took it by money. I can go to anywhere in the St.
24 Mary's River in any two days and it would put these
25 figures out of proportion.

26 Q. Would you agree that your gross
27 earnings, or the charges derived from your work, were
28 \$19,095.28?

29 A. That could be how much the charges
30 were.



1 Q. On your behalf?

2 A. Yes.

3 Q. Could you check your statistics
4 to find if this is exact?

5 A. Those don't mean anything to me,
6 because the fact is that what I brought in and what it
7 cost to keep me are two different things. If you
8 take a look at the money...

9 Q. I am sorry; I just want you to
10 check whether this is accurate or not?

11 A. I assume it is.

12 Q. You agree that you brought that
13 amount of money in?

14 A. I would assume so.

15 Q. And with regard to the total figures,
16 whether the figure of 74.2 hours piloting in designated
17 waters is exact, you can't say?

18 A. No, I can't say.

19 Q. And whether the total in un-
20 designated waters amounted to 702.8 hours, you don't
21 know?

22 A. No.

23 Q. Or the total hours detained and
24 amounting to 128.70, you don't know?

25 A. No.

26 Q. And the boat charges in the amount
27 of 152.28, you don't know?

28 A. Yes; that is correct.

29 Q. That is correct?

30 A. Yes.



1 Q. And the total of 712.60 charged
2 on the source form...

3 A. Yes.

4 Q. That would be correct? That would
5 be the exact figure?

6 A. Yes.

7 Q. So we can take it that the hours
8 must also be exact since the money is exact, because
9 the money is calculated on the hours?

10 A. I don't show that. We don't deal
11 in hours; we deal in money.

12 Q. Then, we will talk about money?

13 A. This is more important.

14 THE CHAIRMAN: So you can talk about
15 money in about ten minutes' time. We will take our
16 recess now.

17
18 ---Recess

19
20 THE CHAIRMAN: Mr. Jacques?

21 MR. JACQUES: Q. Now, Captain,
22 coming back to Exhibit 1215, on the money side of it,
23 the column entitled "Total Charges" is the charges
24 which are made either by your association or whoever
25 does the billing and collecting as per the source form?

26 A. That is correct.

27 Q. Will you look at these figures and
28 tell me whether you believe they might be exact?

29 A. As to whether they are exact, I
30 wouldn't say, but they must be awful close if you took



1 them off the source forms.

2 I want to make just one more comment.
3 On your total boat charges you fail to show that
4 those boat charges are a reimbursable expense, and
5 in an additional column right alongside it you should
6 have had the boat charge that is non-reimbursable,
7 that is borne by the Association. In this respect,
8 from Detour to Gros Cap there is a fixed fee of \$200.
9 Out of the \$200, which is included in your total
10 charge, must come the cost of pilot boats and other
11 transportation, so that we are speaking of at least
12 50 or better dollars per trip per ship. That must
13 come out of the 30,000 figure.

14 Well, now, taking an individual pilot,
15 there is Captain Swan. He is a river pilot. The
16 total charges which he brought into the Association
17 were \$30,126.27. I work predominantly at the Duluth
18 harbour and I brought in \$19,095; but within this
19 \$200 you have all this additional expense that is
20 inclusive in the in-district, whereas my expense out of
21 the district is reimbursable.

22 Q. So that would explain the sometimes
23 wide discrepancy between what each pilot brought into
24 the fund?

25 A. Yes.

26 THE CHAIRMAN: It is gross in the
27 one instance and in the other it is net?

28 THE WITNESS: Yes.

29 THE CHAIRMAN: Or partly so?

30 THE WITNESS: Nearly net.



1 MR. JACQUES: Thank you.

2 THE CHAIRMAN: Are there any further
3 questions to Captain Rico?

4 COMMISSIONER SMITH: My Lord, I would
5 like to ask the witness a question or two.

6 Captain, in your evidence you used the
7 expression -- and stop me and correct me if I am
8 misquoting you -- "Compulsory pilotage implies ships'
9 safety." I understood you to use that expression.
10 Is that correct?

11 A. Yes, I used that expression.

12 Q. Now, I come to this: We have
13 got some evidence before the Commission that the
14 primary purpose of pilotage is safety; some say
15 maneuverability; some say convenience; others say
16 it is a rest period for the Master; and so on.
17 I would like to ask you what, in your opinion, the
18 primary purpose of pilotage is?

19 THE WITNESS: Pilotage gets to be
20 more human than mechanical. When you are entering an
21 area of doubt, or unknown, you seek some guidance.
22 A master mariner from the oceans, from all the nations
23 that enter, or is about to enter, an unknown body
24 of water, or a port, canal, channel, probably will
25 go to his books and see if pilotage is available in
26 this particular area, and his reasons, I imagine, are
27 for the safe conduct of his ship through an area he
28 is unfamiliar with. I suppose that pilotage is
29 based on that factor. I imagine that if pilotage is
30



1 not available and he must take his ship through a body
2 of water with which he is unfamiliar he might resort
3 to a prayer.

4 COMMISSIONER SMITH: I understand you
5 to mean that it might safety in one circumstance and
6 convenience in another?

7 THE WITNESS: No, I don't mean it as
8 a matter of convenience. I would predicate my
9 statement on -- if I were more learned I would try to
10 find a better word than "safety" -- but safety --
11 not only the ship's safety, but life and property --
12 both of them.

13 COMMISSIONER SMITH: One other question:
14 In your evidence and also in your brief and re-
15 commendations 3, 4, 5, 6, 8 and others, and in some
16 of your testimony you mentioned in a fringe sort of
17 way recommendations that you had in mind which might
18 improve the pilotage in the administrative sense and
19 in other respects as well not only on the lower level
20 of the administration but also, I think, going a little
21 bit higher up in the echelon.

22 Now, I would like to ask you if your
23 organization, or you yourself, have considered any
24 recommendations leading to the improvement of the
25 higher level aspect of the international pilotage in
26 the locks and canals and connecting channels and on
27 the Great Lakes -- recommendations that would be
28 necessary to present to the high level of government
29 in both countries? Has your organization thought of
30 recommending any changes or any formulae which would



1 improve international pilotage as such in the two
2 countries?

3 THE WITNESS: Your Honour, I believe in
4 my notes here I have had a brief and outline made as
5 presented to the administration in Washington about our
6 opinions on pilotage and what portions of pilotage we
7 felt, after having experience since 1961, 1962 and 1963
8 and now into 1964 -- what we thought in 1961 in the
9 hearings that were held previous to the inception of
10 pilotage, and what we thought were good regulations,
11 or proper regulations, after having had the chance to
12 put them into practice, didn't materialize to the
13 extent that we thought they would; so, from time to time,
14 instead of trying to give our opinion of how the
15 government should run pilotage we have taken those
16 portions of the regulations that we felt were more
17 immediately needed -- needed more immediate attention --
18 and submitted our proposals as to how the regulations
19 should be read.

20 -

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1
2 I can give you an example now, namely
3 a sort of little running feud we have with the
4 Administrator in Washington. I don't know if I
5 am allowed to say this. The point is our applicant
6 training program was rather severe at the outset
7 of pilotage in our estimation. Now. At that time
8 it seemed adequate, but now after we have reviewed
9 our stand on that one particular phase of pilotage
10 our demands for applicant pilots seemed a little
11 high. Great Lakes pilots are becoming more and
12 more extinct. There is no training. There is not
13 any place where these people can become trainees
14 any more to write for first class pilot's licence.
15 The Great Lakes fleets that we had our experiences
16 in are slowly diminishing, and on the American side
17 it has really gone down drastically so that what we
18 thought was a large reservoir or pool where we
19 could get pilots is being slowly siphoned off. So
20 our outlook now on the applicant training program
21 is that we start developing our own and try to get
22 some training program from our own and develop our
23 own pilots rather than going out in the field and
24 choosing pilots which are becoming less and less
25 all the time.

26 COMMISSIONER SMITH: Would those submissions
27 and recommendations made to your government be of a
28 confidential nature?

29 THE WITNESS: No, no.

30 COMMISSIONER SMITH: We could have those?

THE WITNESS: I would be



1
2 delighted to give them to you. I don't have them
3 with me, but could I mail them to you?

4 COMMISSIONER SMITH: Yes, I think so.

5 THE CHAIRMAN: We will give them
6 a number right now.

7 THE SECRETARY: Number 1379.

8 MR. LALONDE: What would be the
9 title of the exhibit?

10 MR. JACQUES: Would you describe
11 what you are going to file with the Commission?

12 THE WITNESS: We would
13 call this an applicant training program, to revamp
14 our applicant training program.

15 ---EXHIBIT NO. 1379 - Documents concerning
16 (To be submitted) revamping of applicant
17 training program

18 MR. JACQUES: This answers one
19 question which I was going to ask and which I had
20 forgotten. Further to Mr. Smith's first question
21 you said, and I quote, "the Master who enters an
22 unknown body of water". This is one case which
23 happens. We know that. The result of a case
24 of a Master who has been to a port several times
25 a year. Would your answer be the same in that
26 particular case as it was in the first case, the
27 case of a Master who enters an unknown body of
28 water?

29 THE WITNESS: In a broad
30 sense it would always become an unknown body of
water to him in this respect that because of the



1
2 many, many ports in the world and because of the
3 fact that a Master now not only becomes a mariner,
4 but it seems that in the economic picture of the
5 world today a Master of a ship is a mariner probably
6 second at times, and more of a business agent for
7 the ship owner. He has so many complex problems
8 about getting the ship into a berth or adjusting
9 himself to respective cargoes and working on this
10 phase of his business, because after all the ship
makes money. Without it he does not have a job.

11 Well, it seems to be a tendency more to
12 watch his business and less to take care of
13 navigation of the ship, that if he had to go and
14 memorize and learn all the buoyage system and the
15 currents and tides and things of particular specific
16 incidence in each port that he goes into, he would
never have a chance to do a job.

17 MR. JACQUES: Let us take the
18 case of a Master who is employed on a regular line
19 calling into -- I don't know -- name whatever port.

20 THE WITNESS: Let's take the
21 Manchester liners who ply into Duluth regularly.
22 Manchester commerce. They call for a pilot every
time they come.

23 MR. JACQUES: I am sure they do,
24 but do you think that the Master after having made
25 several trips, and you admitted that even though
26 you had been away or you might be away from the
27 Soo River for a whole year, that it would not
28 present any problem to you.
29
30



1
2 THE WITNESS: Well, this is
3 competence. I won't profess a man's competence.
4 I refuse to do that.

5 MR. JACQUES: Thank you. Who
6 would be in a better position to explain the
7 American waiver procedure, you or Mr. Kuefner?

8 THE WITNESS: Mr. Kuefner.

9 MR. JACQUES: Do you know if
10 there is any pilotage done by pilots who are not
11 registered?

12 THE WITNESS: Yes.

13 MR. JACQUES: In the American
14 waters?

15 THE WITNESS: Yes.

16 MR. JACQUES: Where?

17 THE WITNESS: Bay City and
18 Chicago.

19 MR. JACQUES: I see. Would you
20 know about Chicago? Would you know how many pilots
21 they have?

22 THE WITNESS: I don't have names
23 or particulars with me, but in our official log book
24 in the office, pilots who come in from time to time,
25 and if you would accept this after I get back, I
26 can give you more particulars. I can do that.

27 MR. JACQUES: Yes, I would be
28 pleased if you would prepare something on port
29 pilotage done by non-registered pilots in the States.

30 THE WITNESS: I am not
thoroughly familiar with what their operation is,



1
2 but I have been told by my pilots in my district
3 that these pilots have been doing work in these
4 two areas that I mentioned.

5 MR. JACQUES: Whatever information
6 you have available.

7 THE WITNESS: All right.

8 MR. JACQUES: And they will be
9 given Exhibit No. 1380, a statement with respect
10 to port pilotage done in District No. 3 by non-
11 registered pilots.

12 THE SECRETARY: Number 1380.

13 MR. LALONDE: We have just given
14 a number to this matter here, and I am advised by
15 the Administrator that the association does not have
16 specific facts or events to report.

17 THE WITNESS: I have them.

18 MR. LALONDE: Do you have?

19 THE WITNESS: Yes.

20 MR. LALONDE: We will file
21 whatever statement is available.

22 THE CHAIRMAN: That is all right.

23 ---EXHIBIT NO. 1380 - Statement regarding
24 (To be produced) pilotage work being done
25 by non-registered pilots

26 MR. BRISSET: Captain, are you
27 aware of the proposal of the Coast Guard to change
28 the Great Lakes rules of the road and pattern them
29 after the international rules of the road?

30 THE WITNESS: I was not aware



1
2 that the Coast Guard was following this matter, no.
3 I was aware that there were portions that they
4 would like to change, but as far as totally, no,
5 I was not aware that they were totally changing
6 them.

7 MR. BRISSET: Could that possibly
8 be the source of your disagreement with the Adminis-
9 trator in respect of your training program in the
10 sense that the Administrator feels that new pilots
11 on the lakes should be more likely found amongst
12 people having sea experience?

13 THE WITNESS: He has mentioned
14 that, yes.

15 MR. BRISSET: In other words,
16 the Administrator is favouring as pilot material
17 applicants or candidates whose experience is not
18 only restricted to the lakes but have had experience
19 on the ocean, handling ocean vessels?

20 THE WITNESS: It would seem that
21 his intent is to bring people from the coastal areas
22 or the ocean areas and bring them in the Great Lakes
23 for training, not because they are licensed for this
24 particular area.

25 MR. BRISSET: But because of their
26 general experience in handling ocean vessels and
27 general experience at sea? Coastal or otherwise?

28 THE WITNESS: I question the
29 handling part of it.

30 MR. BRISSET: I am just trying to
find out what is the area of disagreement between



1
2 your association and the Administrator on the
3 training scheme. If I have not put it properly,
4 I would like you to correct me.

5 MR. LALONDE: I submit my friend
6 is submitting to the witness what is in the mind of
7 the Administrator in Washington, and I think that
8 the witness is not in a very good position to answer
9 that.

10 MR. BRISSET: Well, either the
11 witness knows or he does not. He can tell me.

12 THE WITNESS: I would prefer to
13 say that I don't know what this man has in mind.

14 MR. BRISSET: Is that area of
15 disagreement covered in the documents you were
16 going to produce as Exhibit No. 1379? Is that what
17 you intended to produce?

18 THE WITNESS: In 1379? And 1379
19 represents?

20 THE SECRETARY: Concerning the
21 pilot training program.

22 THE WITNESS: There was a portion
23 in there that led us to believe that there was
24 personnel on the Great Lakes who have been used
25 and could be chosen to become pilots on the Great
26 Lakes.

27 MR. BRISSET: I thought if I was
28 not mistaken what you intended to produce was a
29 document or documents that included negotiations
30 or correspondence with the Administrator.

THE WITNESS: This can be done too.



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MR. BRISSET: Would you do that?

3

THE WITNESS: Yes, I shall.

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MR. JACQUES: Captain, I am
sorry to go back, but I would like you to read from
the stenographic transcript of the proceedings on
the proposed amendments to Great Lakes pilotage
regulations held in Detroit, Michigan, on April
13, 1964, Volume I, starting at the bottom of page
31, and if you would read about half way down page
32, please. That is the evidence which you gave at
that hearing.

12

THE WITNESS: Start here?

13

MR. JACQUES: Yes.

14

THE WITNESS: Captain --

15

16

MR. JACQUES: No, you don't have
to read it aloud. Just so that you can refresh
your memory.

17

THE WITNESS: Yes.

18

19

20

MR. JACQUES: Page 32 contains
the following statement in the form of an answer,
and I quote:

21

"Captain Rico: That was in Chicago.

22

Chicago harbour pilots. We made the
commitment with them the following year."

23

24

Would you explain what year you refer to and what
commitment was made with the Chicago harbour pilots?

25

26

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THE WITNESS: In 1961 the Chicago
harbour pilots had been in existence I believe for
quite a few years. To be exact, I don't know, but
I do know that they were in existence in 1959 and



1
2 1960, and handled considerable traffic and probably
3 all the traffic in the Chicago area.

4 In 1961 when the pilots became registered,
5 Meschter in Washington excluded the Chicago river
6 pilots -- or the harbour pilots. In 1961 when it
7 was compulsory pilotage, the Chicago harbour pilots
8 still continued to pilot in the Chicago area although
9 they were not registered.

10 In order for us to become engaged or take
11 part as was our just due in the Chicago area, we
12 went down and made a deal with the Chicago harbour
13 pilots to use their pilot boat and their despatching
14 station because when a ship required a B certificate --
15 or had a B certificate, they would use Chicago
16 harbour pilots, but when they had no B then they
17 would call us.

18 Well, this wasn't too good for us because
19 we would sit on the beach and wait for a move in
20 the area, and these pilots were working and we were
21 not working. Now, I don't know where the responsi-
22 bility lies, but if we were to have pilotage in the
23 lake area, and this was part of our district along
24 with District 2, then we assumed we would get all
25 the work in the Chicago area, but this did not
26 materialize so it comes back to the same old thing,
27 if you can't lick them, you join them, so we joined
28 forces with District 2, and it was District 2,
29 District 3 and the Chicago harbour pilots, and we
30 made a deal we would use their boat facilities,
pilot boats, and despatching facilities, for a
period of one year.



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MR. JACQUES: In return for
what?

THE WITNESS: In return for
nothing. Just cooperated with them.

MR. JACQUES: But they were
allowed --

THE WITNESS: They were allowed
to pilot, and Meschter knew this too.

MR. JACQUES: And this is the
commitment to which you referred?

THE WITNESS: That is right.
He made the statement to me that there isn't any
pilotage done -- there was never any pilotage
done other than by registered pilots.

MR. JACQUES: That is correct.

THE WITNESS: But that was done
in 1962.

MR. JACQUES: Thank you.

MR. BRISSET: Are you quite
certain of what you say now? My understanding
was that in Chicago now only registered pilots do
piloting while the former harbour pilots provide
the facilities of the boat.

THE WITNESS: No, they don't do
that now. That was only -- we made a deal with
them for one year.

MR. BRISSET: What is the situation
now?

THE WITNESS: The situation now
is not so good in my estimation. The despatching



1
2 is being handled by Great Lakes Towing. Example
3 one, if you used two tugs, the tug will take you
4 and anchor the pilot boat. If you don't use any
5 tugs you have no pilot boat. You have to go and
6 ask the grocery man or get someone to take you out
7 to the ship. It is a very odd situation. It
8 seems to be too much of a conflict of interest.

9 Pilotage should be divorced completely
10 from all phases of marine industry. It should be
11 alone.

12 MR. BRISSET: Who is doing
13 pilotage in the harbour of Chicago now? Your
14 association?

15 THE WITNESS: Part of our
16 association and part of District 2.

17 MR. BRISSET: But no harbour
18 pilots unregistered?

19 THE WITNESS: I have a slip
20 signed by one of our pilots stating that the tug
21 men are doing some of the piloting occasionally.

22 MR. BRISSET: Without the
23 assistance of a registered pilot of your association
24 or of No. 2 district? Is that what you mean?

25 THE WITNESS: That is what he
26 means, yes.

27 MR. BRISSET: Therefore they
28 are not law abiding citizens as I understand.

29 THE WITNESS: There is no
30 compulsory pilotage in Chicago.

MR. BRISSET: But these harbour



1
2 pilots of whom you speak are not registered pilots?

3 THE WITNESS: No, they are not
4 registered pilots. Neither is the one in Bay City.

5 DIRECT EXAMINATION BY MR. JACQUES:

6 Q. Did your association participate in any
7 way in the drafting of the various regulations
8 applicable on the Great Lakes?

9 A. Yes, I believe we were instrumental in them.

10 Q. Did you appear before the various commit-
11 tees set up to investigate Great Lakes pilotage prior
12 to the adoption of public law 86?

13 A. Yes, I believe -- I wasn't present at
14 that particular meeting, but there was one set up
15 prior to the inception of the law, and I believe it
16 was in 1960, in November.

17 Q. But you do not recall what transpired?

18 A. We might have some briefs still on that,
19 but that would be our counsel, Mr. Fredin and one
20 of our retired pilots who appeared before the
21 committee, the Senate Committee. Senator Magnesson
22 I believe was the head of the committee.
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(Jacques)

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Q. Q. So anything that was done would appear in
the records of the Senate Committees?

3

4

A. I am sure it would, yes. I think I read
the transcript.

5

6

MR. LALONDE: We have that already filed
here.

7

BY MR. JACQUES:

8

9

Q. After the law had been adopted where
you make any representation with respect to port
pilotage allowing non-registered pilots to keep
on piloting in whatever ports they were doing it
before?

10

11

12

A. Only in that instance in Chicago.

13

14

Q. Only in that instance?

15

16

Q. And have you made representation with
respect to port pilotage in Toronto and Hamilton?

17

18

A. I do not know if we did, but I know we
made the comparison with Washington.

19

MR. JACQUES: I see. Thank you.

20

CAPTAIN SLOCOMBE: May I ask one question,
My Lord?

21

22

THE CHAIRMAN: Yes, Captain Slocombe.

23

CAPTAIN SLOCOMBE: With the change of
subject.

24

25

Captain Rico, you said you had a first-
class pilot's licence issued by the coast guard?

26

THE WITNESS: Yes.

27

28

CAPTAIN SLOCOMBE: This pilot's licence
enables you to act as first mate or master or ---

29

THE WITNESS: No. Our licence reads

30



(Jacques)

"Master of any gross tons on steam and motor" and also "first class pilot".

CAPTAIN SLOCOMBE: That first-class pilot's licence would be valid on any part of a lake, is this right?

THE WITNESS: First-class pilot's is only valid for that area for which you write. There are a minimum number of trips that you must make over the route in order to write for a first-class pilot's licence.

CAPTAIN SLOCOMBE: Yes. My question is, had you been into every port in the area for which your licence was issued?

THE WITNESS: I am entitled to go to every port on the Great Lakes and I have not been in every port on the Great Lakes.

CAPTAIN SLOCOMBE: That is what I wanted to establish, yes.

THE CHAIRMAN: You had not been prior to being granted the licence or the certificate?

THE WITNESS: Would you mind repeating that, please?

THE CHAIRMAN: You had not been at the time you were granted, or you have not been since?

THE WITNESS: Prior to the time I was granted.

BY MR. JACQUES:

Q. So I take it then that if you were master coastwise vessel enrolled -- I believe they call them?

A. Yes.

Q. You would be entitled to ply up and down



1
2 the Great Lakes anywhere without a pilot?

3 A. Well, I am a pilot; we are pilots.

4 Q. Oh, yes, but if you were not a pilot --
5 say tomorrow we quit pilotage?

6 A. No, I could not. If I was master then
7 I could not be the pilot unless it was endorsed on
8 my certificate.

9 Q. Well, it is endorsed on your certificate?

10 A. Yes, it is.

11 Q. So, with your present certificate, if you
12 were to obtain a job as a master on a U.S. lake ship,
13 or a Canadian lake ship, for that matter, you would
14 be entitled to ply anywhere in the lakes without
15 being obliged to take a pilot on board?

16 THE CHAIRMAN: A licensed ---

17 BY MR. JACQUES:

18 Q. A registered pilot.

19 A. The law reads in the United States that
20 it excludes all laker-type ships, either Canadian
21 or American flag, which are not required to take
22 pilots owing to the fact that they carry four pilots
23 on the ship.

24 Q. So you would be entitled to sail anywhere
25 on the Lakes without a pilot?

26 A. Yes, sir.

27 THE CHAIRMAN: Yes, Mr. Lalonde?

28 MR. LALONDE: I do not know whether
29 it is my turn now. I have only one question.

30 Captain Rico, you have heard of a
suggestion that in spite of having parity all over the



1
2 Lakes between Canadian and American pilots, they
3 would divide the Lakes in two sections, one that
4 would be exclusively Canadian and would go as far
5 as Port Colborne, if I remember well, and the other
6 one which would be exclusively American and where
7 there would be exclusively American pilots, both in
8 American and Canadian ports except for the Lakehead.

9 Do you have any views about a
10 suggestion like that one?

11 THE WITNESS: Well, we have our
12 pools. Captain Malette is a member of our pool.
13 I see no reason to differentiate between a Canadian
14 pilot or an American pilot. The only people who
15 differentiate between the two pilots are not the
16 pilots themselves. It is our governments. We
17 have one government which says they must be civil
18 servants and the other one says it must be on a free
19 enterprise basis. This is inconceivable. If two
20 governments cannot make up their minds as to what
21 they want from a pilot, how do they expect the pilot
22 to make up his own mind?

23 MR. JACQUES: I would not say it
24 is inconceivable. It is rather usual.

25 THE WITNESS: I did not mean to be
26 insulting. No, I want to work for Sid Malette. I
27 want to be on the same rating as him. We do the
28 same kind of work; we share the same kind of grief.
29 I do not want it separated. I cannot see how you can.

30 THE CHAIRMAN: Are there any further
questions of Captain Rico?



1
2 Thank you very much, Captain.

3 THE WITNESS: Thank you very much.
4 I appreciate your letting me speak my piece.

5 THE CHAIRMAN: We learned quite a
6 bit. Thank you very much also for that.

7 ---The witness withdrew.
8
9
10

11 EUGENE A. KUEFNER, Sworn

12
13 THE SECRETARY: Give your full
14 name, please.

15 THE WITNESS: Eugene A. Kuefner.
16 I would like to make one comment before
17 I start -- a comment of appreciation for being
18 invited here and an understanding that in giving
19 statistics and figures it is sometimes difficult
20 to prevent it sounding as though we are actually
21 trying to create a disturbance between one group
22 and another. We offer these in the spirit of
23 helpfulness and hope that they will be considered
24 such and not an attempt on our part to point the
25 finger, so to speak, at anyone.

26 THE CHAIRMAN: Thank you very much.

27 DIRECT EXAMINATION BY MR. LALONDE:

28 Q. Would you give us your age?

29 A. 57.

30 Q. What is your present occupation?



1
2 A. I am the business manager or administrator
3 of the Lake Superior Pilotage Association.

4 Q. Since when have you occupied that function?

5 A. Since February 15, 1963.

6 Q. Will you give us your previous experience
7 to that appointment?

8 A. How many years prior to that would you
9 like to go?

10 Q. Experience which will be somewhat relevant,
11 which will give us a picture of your background for
12 that job?

13 A. Perhaps the last five years in New York
14 and then the ten years in Duluth. The last five
15 years in New York were spent as a publishing consultant.
16 Part of that time I was circulation director of
17 Look magazine. Working in the newspaper in Des Moines
18 I had opened my own business as a publishing consultant
19 and kept that business for five years. I thought
20 that New York city was not my opinion of a proper
21 place to raise the four children we had. We thought
22 they should enjoy the outdoors and the joy of outdoor
23 living, and many other reasons, so we moved to Duluth.

24 In coming to Duluth -- prior to coming
25 there I published my own, I had a small magazine of
26 my own which I still publish annually. If you
27 will forgive my appearance in some areas, it is a
28 magazine on diets. It is now a matter of a hobby
29 rather than much of a money-making proposition. It
30 is a great deal of fun and you do get much satisfaction
in helping people.



Kuefner, dir. ex
(Lalonde)

1
2 I had that magazine when arriving
3 in Duluth. I knew no one. It was just the area
4 we wanted to live, with the good educational
5 facilities, nice people, and so on and so forth.
6 I started in Duluth just putting out this magazine
7 and making sufficient money to live on, but finding
8 life very dull because it only took about an hour
9 every day, I could not stand the inactivity, so I
10 approached the only publisher in Duluth, who was a
11 business paper publisher, and asked if he had some
12 part time work.

13 To shorten it, I worked full time
14 for him for about nine years as the treasurer and
15 general manager. It was the Davidson Publishing
16 Company at one time and then the last three years
17 it was the Ojibway Press. We published 12 to 20
18 business publications, had a printing plant and a
19 photo engraving plant, and during that time I was
20 treasurer and general manager of the company. When
21 I started we had a business total of about \$250,000.
22 When I left we were doing between five and six million.

23 The work was very demanding in time
24 and energy. I felt that I would prefer to get away
25 from the nervous pressure, so I left there the first
26 of January of last year and wanted to take a six
27 months rest period and then start off on something
28 else. In the meantime the pilotage administration
29 contacted me, their attorney, and asked if I would
30 come in and set up the organization -- set up the
set of books operating as business manager/administrator.



1
2 It sounded like it would be a great deal of
3 interesting work and in my opinion fun. I have
4 been there since.

5 Q. What are your main functions as business
6 manager of the Association?

7 A. It is my duty to do all of the
8 administration work. That means the despatching,
9 the bookkeeping, the servicing, preparing of reports
10 that are required to both the Canadian and the U.S.
11 governments, the D.O.T., and the Great Lakes Pilotage
Administration.

12 Q. Do you have any employees working for you?

13 A. We have one full-time despatcher in Duluth,
14 one part time stenographer. We have two other
15 despatchers but they are on a contractual basis
and not on the actual payroll.

16 Q. What contractors are they?

17 A. We have a despatcher at Detour to handle
18 despatching on the St. Lawrence River. We also have
19 a despatcher at Fort William/Port Arthur to handle
20 the despatching there. Then of course I presume
21 you would have to consider as an employee of the
corporation all of the pilots.

22 Q. Yes, we will come to that. You are
23 responsible for all the despatching. Are the
24 despatchers at Fort William/Port Arthur and at
25 Detour responsible to you?

26 A. That is right.

27 Q. They keep in touch with you or you keep
28 in touch with them regularly -- or how do you proceed?
29
30



1
2 A. We have a routine procedure set up whereby
3 we have twice daily contact with the despatcher at
4 Sault Ste. Marie, actually at Detour, handling the
5 despatching of the pilots stationed on the St. Mary's
6 River.

7 ^{are}
8 There/occasions when it is necessary
9 to be in contact three or four times a day, or during
10 the evening. In other words, whenever the traffic
11 demands are such that additional information is
12 necessary, the despatcher contacts us, or we contact
13 the despatcher. But on the average I suppose it
14 would be between two and three times daily seven
15 days a week.

16 At Fort William we have a similar
17 situation, but the traffic is much lighter. We have
18 an arrangement there whereby the despatcher, Elliot
19 Dawson, contacts us and keeps us constantly aware of
20 the ships expected in the harbour, those that are in or
21 are expected in within a very short time, perhaps
22 24 hours, the movement of the ships from one docking
23 area to another, the requirements and his requirements
24 for pilots. We are constantly advised by telephone
25 between Fort William and Duluth in that area of
26 operation.

27 Q. What about pilot boats in your district?

28 A. We have contractual arrangements with
29 pilot boats at Detour and Gros Cap.

30 Q. And I understand that in that case the
cost of that pilot boat is deducted from the fee to
the ship? That is, you have a total of \$200 fee and



1
2 you pay the pilot boat out of that fee?

3 A. Yes. We charge \$200 for the U.S. pilot
4 and \$185 for the Canadian pilot, and from that sum
5 we must deduct the cost of the pilot boats, \$25 at
6 Brimley and \$18 at Detour.

7 We also have an arrangement with
8 Elliot Dawson at Fort William for the use of his
9 pilot boat and he charges \$20 for the use of that.
10 There are two principal pilot boat operators in
11 Duluth. We use those operators as they are needed,
12 and their charge is \$18.

13 Q. I see, and the charges for the pilot
14 boats at Duluth and the Lakehead is that paid by the
15 ship?

16 A. Those are additional charges to the ship.
17 There is a sharp differentiation that should be made
18 between them. In the Sault Ste. Marie area, the
19 pilot boat charges are part of the \$200 fee we
20 collect, whereas in Fort William/Port Arthur and
21 in Duluth they are additional charges over and
22 beyond the pilotage fees.

23 Q. I presume that you are also responsible
24 for the collection of pilotage fees and distribution
25 among pilots; that is part of your responsibility?

26 A. Yes, that is part of the accounting area.

27 Q. Captain Rico mentioned that you have
28 in your district working rules...I am showing you
29 a document entitled Lake Superior Pilots' Association
30 Inc. Working Rules as Amended March 24, 1964, bearing
the names of 13 American pilots?



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TORONTO, ONTARIO

20012

Kuefner, dir. ex.
(Lalonde)

1

2

A. Yes.

3

Q. Are these rules those presently in effect?

4

A. They are.

5

MR. LALONDE: I would like, My
Lord, to file this document as part of Exhibit No.
1088. We already have as Exhibit No. 1088 excerpts
from these working rules and this would be the
complete set.

9

10

---ADDITION TO EXHIBIT NO. 1088: Lake Superior Pilots'
Association, Inc.
Working Rules as
Amended March 24,
1964.

11

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2 Q. Now, Captain Rico gave evidence that you
3 have four operating areas -- that is, the Sault
4 Ste. Marie and St. Mary's River, the Duluth-Superior
5 harbour, the Fort William-Prince Arthur harbour and
6 the general pilotage pool, --

7 A Yes.

8 Q. -- members of which are served
9 at the order of the despatcher?

10 A. Yes.

11 Q. And Captain Rico explained how the pilots
12 are selected for these four areas on the basis of
13 seniority. Would you explain further how you
14 operate the system during the course of the season --
15 how your men operate and how they are transferred,
16 how they change their operating centres once in a
17 while and what are the reasons for this system?

18 A. Perhaps I can take Duluth as an example,
19 because the same will apply to all areas. Let us
20 use Duluth as an example.

21 In our despatching work we keep two
22 rosters, one which we term an in-district or harbour
23 pilot roster and the other the trans-lake roster.
24 The in-district roster is the one which includes
25 the three men assigned to the Duluth area at the
26 beginning of this season plus any pilot who comes
27 into the Duluth harbour on what we term a trans-
28 lake ship -- one coming usually either from the
29 Sault River or Fort William. Our regulations are
30 that any man entering the Duluth harbour -- any
pilot -- is to be placed on the roster that we



Kuefner, dir. ex.
(Lalonde)

1
2 operate in Duluth; and that is not just Duluth;
3 that is in all the other areas here.

4 As an example, this Captain Hanrahan,
5 one of your Canadian pilots, brings a ship from
6 the St. Mary's River to Duluth; when he docks this
7 ship in Duluth he immediately goes on our in-district
8 or harbour roster. He then takes his turn on that
9 roster so long as he is in the port. When he leaves
10 our port, of course, his name is removed from the
11 roster. He also goes on the trans-lake roster --
12 what we term the trans-lake roster -- which is ships
13 transiting the lake. If there is a pilot in the
14 St. Mary's River he is automatically given the first
15 opportunity to leave the port to get back to his
16 assigned area. At this point, if he is in the St.
17 Mary's River area and he is at Duluth he would get
18 the first ship out of Duluth to get back to his
19 assigned area. If he were a trans-lake pilot and
20 not assigned specifically he would go on what we
21 term our trans-lake roster and he would go to the
22 bottom of the trans-lake roster if there were
23 other trans-lake pilots in port and take his turn
24 as the ships left. He would be assigned a trans-
25 lake ship prior to the assignment of a trans-lake
26 ship to a man who had been assigned to Duluth.

27 The rosters are kept daily. We are very
28 complete, in our opinion. We keep the time, the
29 date, as well as the hour and minute the man gets
30 into our port. We show the date and the time he
is assigned any ship regardless of whether it is



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20015

Kuefner, dir. ex.
(Lalonde)

1
2 an in-district or harbour move or a trans-lake
3 move. We get the date and the time we receive
4 the order. We get the name of the agent and the
5 name of the ship, the time of the expected
6 departure; the time of the day that we advise the
7 pilot of the ship to take the ship out of the
8 harbour. We show whether or not the ship has a
9 B certificate. We show whether or not the
10 invoice has been filled in, or actually whether
11 or not the source form has been received covering
12 that move. In this way we know that the pilot
13 cannot make the move and not turn in the source
14 form. We keep records of all of that. We keep
15 a record for every pilot placed on these two
16 rosters.

17 We have one further need. We, on
18 occasion, will have a call from the Sault, or
19 from Fort William-Prince Arthur, stating that they
20 need a trans-lake pilot and one is not available.
21 If we have that call we then will send the top
22 man on the trans-lake roster to the area of
23 assignment. If it is to Fort William we will
24 send him to Fort William-Port Arthur to take that
25 ship down the lake. This often happens when you
26 have two, three or four ships at the harbour and
27 we may have a man stationed there. That man will
28 take the ship out, but before the day is past we
29 try to have another man out there for harbour moves;
30 so that we move those men from wherever we have
pilots available, that are not actually at work.



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20016

Kuefner, dir. ex.
(Lalonde)

1
2 In this way we try to keep every territory covered.
3 We try to anticipate the moves and needs of pilots
4 by getting from the agent the complete list of all
5 the ships that are expected in the harbour and
6 the approximate date they are expected in the
7 harbour; as soon as a ship gets into the harbour
8 we find out from the agent the elevators that that
9 ship will move to during its stay and the approximate
10 date at which the ship is to move; so that we have
11 in our draft at all times an anticipated schedule
12 for the movement of that ship while in our territory.
13 In this way we can anticipate the need for pilots,
14 and we are rather proud in this connection. Just
15 as an example, through the entire year to date we
16 have requested only one waiver through the St.
17 Mary's River. We have requested not more than six
18 in total for the entire district; and if you are
19 aware of the requests from some other areas, this
20 is outstanding, considering that the volume is
21 actually up about 40 per cent, I believe, this year,
22 in our district; and we don't have an increase in
23 pilots, nor do we have an increase in the staff.

24 Q. What are the main advantages in having
25 the operating areas as you have set them up, from
26 an administrative viewpoint? Are there advantages,
27 or --

28 A. There are many advantages, and they are
29 principally advantages to the ship owner in saving
30 him very substantial amounts of money.



Kuefner, dir. ex.
(Lalonde)

1
2 Just as an example, we have approximately
3 six men stationed at St. Mary's River, and there
4 are times when you get no more than an hour's notice
5 for the need of a pilot. That ship will be an
6 hour out of Detour and will radio you stating that
7 they need a pilot. If we did not have a complement
8 of men stationed at the Sault it would mean, if we
9 had a single roster for the entire territory,
10 which is not workable, actually -- in theory it
11 sounds fine, but in actual practise it is not
12 workable -- but having been notified then we can
13 give the ship immediate service even although we
14 may only have an hour's notice; and if we did not
15 have these men stationed properly and were sending
16 them from Detroit it would mean the ship would be
17 held up or would have to wait until the pilot flew
18 up from Detroit to the Sault, and the cost of his
19 flying in there would be borne by the ship; and the
20 delay, of course, is extremely expensive for a ship.
21 We eliminate that by having the men stationed at
22 various areas, and trying to anticipate traffic
23 and keep them there at all times.

24 Q. So you say that this system is of benefit
25 to the ship owners so far as costs and travelling
26 expenses are concerned?

27 A. Very much; it also allows us to operate
28 the territory with fewer pilots; fewer pilots because
29 we will be able to work and not spend the time in
30 what we term dry travel by train or plane or bus.

The known seasonal demands are vitally
important in this area. I think Captain Rico



Kuefner, dir. ex.
(Lalonde)

1
2 mentioned the needs for the balance of the season.
3 If those are not properly handled we will not have
4 pilots available and a chaotic situation will
5 develop.

6 Q. Now, Captain Rico explained how the
7 system was established for the American pilots. Did
8 you have complaints from Canadian pilots with regard
9 to discrimination in despatching, or discrimination
in earnings and that type of problem?

10 A To the best of my knowledge we have not
11 received a complaint from a Canadian pilot regarding
12 despatching, or any other part of our operation, nor
13 have we received complaints from any agents who, of
14 course, we must please. To the best of my knowledge
15 the agents are quite happy and satisfied. Our
16 complaints are not coming from those areas.

17 Q. Then, where are they coming from? Did
18 you receive complaints from the Department of
Transport?

19 A. Yes, we did, indirectly.

20 Q. What do you mean by "indirectly"?

21 A. We are not allowed to contact the
22 Department of Transport, so any information we get
must be relayed to us by Washington.

23 Q. And what complaint did you receive through
24 Washington?

25 A. I think, perhaps, you can put that in the
26 plural and make it much more accurate. Currently,
27 I think the latest complaint we have received is one
28 in which we have to assume that the Department of
29
30



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Kuefner, dir ex..
(Lalonde)

1
2 Transport is insisting upon equal participation --
3 I believe that is the one thing they use -- equal
4 participation in all areas of pilotage, as well as
5 in financial participation.

6 Q. Yes.

7 A. They state that equal participation is
8 wanted -- is demanded, really -- or is required,
9 and we find that it is only required in Duluth,
10 and we have been instructed to see that Canadian
11 pilots participate equally in pilotage in Duluth.
12 Why it should be in Duluth and not in the entire
13 territory is difficult to understand. I think it
14 is a matter of having lost something in the trans-
15 lation of the meaning of letters between the
16 Department of Transport and Washington and our
17 association; but, nevertheless, it requires that
18 we give equal participation in Duluth but doesn't
19 mention any other areas. Therefore, in our opinion
20 it appears that they are telling us that we must
21 do one thing and then asking us to do something else.

22 Equal participation is not possible under
23 any sense because for equal participation in
24 District 3, or in the entire areas served by
25 District 3, we would have to have pilots in multiples
26 of sixteen so that each man would have the same
27 number of trips to Bay City or to Fort William or
28 any other pilotage area, and not only would they
29 have to be multiples of sixteen but they would have
30 to have the same number of duties involved and the
same number of moves; and that is impossible.



Kuefner, dir. ex.
(Lalonde)

1
2 Q. Could it not mean simply that they want
3 to have a single roster where everybody would be
4 located anywhere in the district in his turn?

5 A. That has been mentioned to us several
6 times, and it seems to be the idea that we have
7 one roster for the entire area. If we get one
8 roster for the entire area we would, of course,
9 have to have all the pilots at that base regardless
10 of where the base might be. If we kept all the
11 pilots at one base, in order to maintain one roster
12 for the entire area -- you see, the time element
13 is very vital. If we have two men checking in at
14 ten o'clock and one at 10:10 we must know that so
15 as to determine when they take over; and if we
16 kept one roster and had one tour de roll it
17 would mean keeping a pilot -- assuming it was
18 Duluth, then if the pilot was needed at Detour
19 you would have to send him there -- whoever was
20 top of that list, at the ship's expense, and really
21 at the pilot's expense, too, because he would have
22 to spend so much time in travelling, and we would
23 have to send the top man. If we couldn't keep
24 a man stationed in the various areas it would be
25 of no value to anticipate these moves, because we
26 must know, if we are going to keep a tour de roll
27 roster, the exact times and dates that these men
28 complete their assignments.

29 I hesitate to be quite that blunt, because
30 it appears as though we are pointing at someone as
doing things that are out of line, and that is not



1
2 in my mind, but I am only trying to show the
3 difficulty that would be involved, and I am doing
4 it with the hope that some changes perhaps could
5 be made by which the pilotage would be more
6 effective and more efficient.

7 Q. Now, I see you have a provision in your
8 working rules about rates of compensation, and there
9 are certain fees allocated for different types of
10 work. Would you tell me what these figures at
11 page 8 refer to?

12 A. We will take them from the beginning --
13 "(a) For transit on St. Mary's River, including
14 Detour to Sault Ste. Marie," the figure is \$80. --
15 is the amount that our U.S. pilots are paid for
16 making that transit. We charge the ship \$200 for
17 the transit.

18 Q. And that is the figure which is indicated
19 in red in the margin?

20 A. That is right; this \$200 being quite
21 different from the charges in other areas in that
22 this must include the cost of the pilot boat at
23 Brimley, which is \$25, the cost of the pilot boat
24 at Detour, which is \$18, and both these charges
25 are normally passed on to this ship over and beyond
26 the pilotage fee. We must pay the cost of the
27 despatcher and we must pay the cost of furnishing
28 cars or cabs so that the men may go from one point
29 to another. We may have four ships coming down
30 at Detour and one to go up, or one going up at
Detour and one going down at Brimley; with the
result that when a man gets down to the lower end



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20022

Kuefner, dir. ex.
(Lalonde)

1
2 he must immediately get up to the other end; so
3 we must furnish four cars; and then there is the
4 cost of laying on the cars for transportation,
5 there is the cost of the teletype -- the constant
6 communication -- the cost of the two radio stations
7 which are necessary to get the messages from the
8 ship.
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1
2 All those costs must be borne in
3 addition to our normal administrative costs.

4 Q. Yes.

5 A. The \$200 covers all those other costs.

6 Q. You go on for various other duties in
7 the district?

8 A. That is right.

9 Q. Can you explain to the Commission how
10 you proceed about the division of earnings in your
11 district generally? You have a case here where a
12 man gets \$80 for a job. How does this work out
13 at the end of the year, for instance?

14 A. This \$80, using just this one figure --

15 Q. Yes?

16 A. -- is the amount the man is paid for
17 making this transit of the St. Mary's River. On
18 the 15th and 30th of each month they make up the
19 payroll for the pilots, and this \$80 is paid to
20 the pilot, and that was his pay for the actual
21 work he does, and he is paid through the 10th of
22 the month. He is paid for his pilotage through
23 the 10th of the month on the 15th.

24 Q. Yes?

25 A. He is paid for his pilotage through
26 the 25th of the month on the 30th, and that way
27 he has an opportunity to get his source forms in
28 to us and we can pay him promptly.

29 Q. Now, I understand that the pilot gets
30 these amounts specified in your working rules let
us say almost immediately twice a month?



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A. That is right.

Q. The rest serves for administrative purposes and all your expenses in the district. Is there a surplus at the end of the year? You must be playing on the safe side here I presume?

A. Our charges are estimated to be 20 per cent for administrative expense and 80 per cent paid out to the pilots for all pilotage except the St. Mary's River. Actually figured the same way on the St. Mary's River, plus all these unusual or added charges for that particular area.

Q. Yes?

A. We try to hold out 20 per cent and pay the pilot the difference. At the end of the year our administrative expenses outside of the 20 per cent, that would be a surplus of unpaid earnings.

Q. Yes?

A. And then after all expenses have been paid and the moneys collected, we would pay that to the pilot.

Q. How do you proceed to pay that to the pilot?

A. Based upon the amount earned by those pilots during the season.

Q. How do you base that? As a portion of what?

A. It isn't a flat sum to each man. If the man has earned 12 per cent -- wouldn't be that high -- but if a man has earned 8 per cent of the total pilotage fees paid, he would get 8 per cent of the undistributed profit. If he earned 7 6/10 per cent during the season, he would get 7 6/10 per cent



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Kuefner, dir. ex.
(Lalonde)

1
2 of the unpaid earnings.

3 Q. I see. I notice also that your corporation
4 by-laws provide that there is a possibility for
5 dividends to shareholders up to the maximum of 2
6 per cent if the corporation has a profit. Have
7 you ever used that provision?

8 A. We have the provision there. We have
9 never used it.

10 Q. So that if and when you had a surplus at
11 the end of the year it was always divided on the
12 basis you have explained?

13 A. That is right.

14 Q. Now, with regard to the Canadian pilots
15 how do you proceed with remitting moneys?

16 A. We have a report that is filed not later
17 than the 15th of each month covering pilotage of
18 the preceding month as well as the pilotage of the
19 year to date. We show the earnings of the U. S.
20 pilots, the earnings of the Canadian pilots, the
21 deductions that are allowable, which is a bit of
22 a bone of contention.

23 Q. Yes?

24 A. And determine then the amount of moneys
25 that the Canadian pilots have earned based on the
26 actual payments as we make them to our U. S.
27 pilots.

28 We then proceed further and make every
29 attempt to see that the pilotage earnings are
30 equal. With the Canadian pilots we try to see
that they participate equally in so far as earnings



Kuefner, dir ex.
(Lalonde)

1
2 are concerned. If the Canadian pilot earns \$12,000
3 we feel that the U.S. pilots should earn at a
4 comparable amount.

5 Q. I see. Now, how do you arrange to have
6 these men arriving at roughly a similar figure? If
7 I am a pilot in Duluth in the harbour itself, and
8 if I am a pilot across the lake I may very well
9 end up with a very, very great difference in
10 earnings. We have a figure of \$30,000 versus
\$19,000 for instance, gross.

11 A. I would like to go into that report later,
12 but I do not believe it is necessary at this point.

13 Q. Yes?

14 A. We have assigned our pilots based on the
15 experience gathered over the past years. We know
16 approximately how much they will earn if we assign
a certain number of men to a certain area.

17 With the Canadian pilots, in an effort to
18 see that they participate equally in all areas of
19 pilotage, we shift some. We have one man stationed
20 at Fort William a portion of the time; we have a
21 man stationed at the Soo River; we have a man on
trans-lake.

22 Q. Yes?

23 A. And we try to rotate these men so that
24 each Canadian pilot gets the same amount of pilotage,
25 of trans-lake pilotage and of pilotage through
26 the St. Mary's River, and we try to keep them in
27 the areas so that the total net earnings of the
28 pilots will be approximately the same.



1
2 Q. What has been your experience in that
3 regard?

4 A. In 1962 the Canadian pilots were paid
5 considerably over the earnings of the U.S. pilots
6 because of a series of complications. In 1963,
7 this past year, the Canadian pilots initially were
8 paid as a result of the actual seasonal work, and
9 as a result of our computation just under one half
10 of one per cent less than the U.S. pilots. But
11 because of adjustments that were made they did
12 during the course of the year 1963 actually receive
13 payment per man at a higher rate than our U.S.
14 pilots were paid.

15 Q. Adjustments going to previous years?

16 A. No, adjustments for 1963. We have some
17 areas of dispute where we feel certain expenses
18 should be included in this inter-association
19 settlement statement, and the Department of Transport
20 does not feel they should be included.

21 Q. So you paid that over to the Department
22 of Transport?

23 A. We paid it under protest, frankly. We
24 paid it because the decision was made without
25 allowing us to participate in any way in making
26 that decision.

27 Q. So I understand it was a decision which
28 was sent to you from Washington?

29 A. That is right.

30 Q. Now, you refer to bi-monthly statements --
no, monthly statements.

A. We turn out two statements. This is the



1
2 financial statement of our organization, of Lake
3 Superior Pilots' Association. We also submit
4 monthly to all of the men what we term an inter-
5 association settlement statement.

6 Q. Do you have a copy?

7 A. Yes.

8 Q. Of the inter-association settlement
9 statement?

10 A. I might explain further ---

11 Q. You are referring to two sheets of
12 paper which I have in my hand?

13 A. Yes. These are financial statements,
14 balance sheet and profit and loss for Lake Superior
15 Pilots' Association. They are made monthly, and
16 they are sent to Washington quarterly, and we don't
17 submit via Washington a copy of this report for the
18 D.O.T., but perhaps Washington makes copies of them
19 and sends them, we don't know.

20 Q. In your office you make monthly statements
21 entitled balance sheet and profit and loss statements
22 for the month, and up to the end of that particular
23 month?

24 A. Yes.

25 Q. Is this distributed to your members?

26 A. Yes.

27 Q. May we file this?

28 A. Yes.

29 Q. I would like to file as Exhibit No. 1381
30 two documents entitled Lake Superior Pilots'
Association, Inc., Profit and Loss Statement,



1
2 September 30, 1964, and Balance Sheet, September 30,
3 1964. The balance sheet would be for the year up
4 to that date?

5 A. That is right.

6 ---EXHIBIT NO. 1381: Profit and Loss Statement of
7 Lake Superior Pilots' Association,
8 Inc., dated September 30, 1964,
9 and Balance Sheet of Lake
Superior Pilots' Association, Inc.
dated September 30, 1964.

10 Q. These statements are prepared by yourself?

11 A. That is right. In addition, we
12 prepare this statement which we refer to as Lake
13 Superior Pilots' Inter-Association Settlement
14 Statement.

15 Q. Yes?

16 A. It is in this manner that we determine
17 the amounts of payment made to the Department of
18 Transport based upon the earnings of the pilots.
19 Then, for comparative purposes we compare that with
20 the days available on a report which we keep daily,
21 and we have been advised that the Canadian pilots
22 or the Canadian department is to repay a sum
23 comparable based upon the days available as U.S.
pilots are paid.

24 In this particular statement it
25 shows the totals down here. It shows the respective
26 share of the net operating income by percentage
figures.

27 Q. Yes?

28 A. We do not show on that statement the
29
30



Kuefner, dir. ex.
(Lalonde)

1
2 percentage of days available, but it is very close
3 to the same. There is less than a half of one
4 per cent difference I believe now between the
5 results shown on here and the actual earnings of
6 the Canadian pilots versus U.S. pilots based on
7 days available.

8 Q. Can we file this document?

9 A. Yes.

10 MR. LALONDE: It is entitled
11 Inter-Association Settlement Statement, Lake
12 Superior Pilots' Association, Inc., September 30,
13 1964, to be filed as part of the previous exhibit
14 also.

15 ---EXHIBIT NO. 1381 ALSO INCLUDES: Inter-Association
16 Settlement Statement dated
17 September 30, 1964.

18 Q. I presume at the end of the year you have
19 audited statements by auditors of your Association?

20 A. We do. We have a C.P.A. ---

21 Q. Yes?

22 A. --not a member of our Association or
23 connected with our Association in any way make an audit
24 of the Association. A copy of that is given to
25 Washington and to the D.O.T. They each have a copy
26 of the 1963 as well as the 1962 audits.

27 Q. You send that directly to the D.O.T.,
28 this audited statement?

29 A. No, we send nothing directly to them.

30 Q. It is sent through Washington?



1
2 A. Yes.

3 Q. Now, my friend referred the court to
4 Exhibit No. 1215, to certain statistics concerning
5 earnings and work load in District No. 3, particularly
6 showing substantial differences between the earnings
7 or total charges earned by individual pilots in
8 the district. Do you have any comment to make
9 on those figures?

10 A. Yes. First, if it is possible, I would
11 like to know to whom these are distributed and
12 with what explanation, and of what use they are;
13 how they are put to use. I don't know that.
14 Until I know that I find it very difficult to make
15 any specific statements on the figures as such.

16 Assuming that all the figures on
17 this statement are correct, and I do assume that they
18 are, I find that there is a serious question in my
19 mind as to the value of the figures. I ask the
20 question is it wise to distribute statistics without
21 an explanation of them? Without the explanation
22 they may be easily misinterpreted, and I think these
23 particular figures lend themselves to misinterpretation
24 almost violently. That is why I wonder how they are
25 used and to whom they are sent, because they can
26 give a complete misconception of the pilotage and
27 its effective work in so far as all the pilots are
28 concerned.

29 Q. What do you mean by that more specifically?

30 A. I think you can make no comparison between
men based upon total charges and come to any logical



Kuefner, dir. ex.
(Lalonde)

1
2 conclusion without an explanation. I feel the
3 same thing about all of these, the number of
4 assignments -- it would be very foolish to level
5 criticism of any kind based on the number of
6 assignments or the total hours in designated waters
7 and total hours in undesignated waters. They have
8 little or no actual bearing upon the end result
9 of the department -- of our Association or of
10 pilotage. Because they so desperately need
11 explanation, if they are to be used, I would like
12 to know how they are used and what explanation
goes with them.

13 MR. JACQUES: The witness was
14 referring to Exhibit No. 1215.

15 MR. LALONDE: Yes, in my question
16 I referred to the exhibit number.

17 Q. Now, we were told by Captain Rico that
18 you had an examining board, and I noticed that the
19 working rules at section 11 provide for discipline
20 and for minimum and maximum fines or suspension.
21 The maximum being suspension for a period of 30
22 days and fine up to \$300, and then there are
23 minimum fines for certain offences. Have these
24 provisions ever been used as yet?

25 A. In the almost two full seasons that I
26 have been there they have been used but once. There
27 was a good reason for that. Firstly, we have some
28 wonderful Canadian pilots. Secondly, the U.S.
29 pilots are paid what they earn, and that is not
30 based upon how much time they are available, but



1
2 they are paid exactly on what they earn, so that
3 if a U.S. pilot decides he wishes to take time
4 off, he is penalizing himself because he forfeits
5 any earnings he might have made during that period.

6 The result is our men do not want
7 time off. They don't take time off except for
8 illness, and then, of course, they have to. But
9 because of the real self-penalty attached if they
10 take time off, they just don't do it. As I say,
11 it has only been used once in almost two full
12 seasons.

13 Q. Was it used in connection with failure
14 to report or in another connection?

15 A. It was another connection.

16 Q. Did the examining board sit on that case?

17 A. The examining board sat on the case and
18 levied a fine of \$300 and three days suspension.

19 Q. To your knowledge have there been cases
20 before your arrival with the corporation where the
21 examining board used its powers?

22 A. I understand there was use of it before
23 my time.

24 Q. Yes?

25 A. I can't speak from first hand knowledge
26 other than just what I have heard.

27 Q. I see.

28 A. A man was actually suspended, had his
29 licence taken away from him because of violations.

30 Q. The taking away of a licence would not
be the responsibility of the Association, however,



1
2 I understand?

3 A. That was the recommendation to Washington.

4 Q. That was the recommendation to Washington?

5 A. Yes, and they accepted it. The pilots
6 don't fool around with one another.

7 Q. Now, I think you indicated some of the
8 reports you were sending to D.O.T. Are there some
9 reports which you are sending to the government
10 in Ottawa which you have not mentioned already,
11 or is the list pretty complete?

12 A. Well, through Washington, the only major
13 report that we send for transfer to Ottawa is the
14 Inter-Association Settlement, and the payments to
15 be made as a result of the settlement statement.
16 We do object to some omissions, some expenses that
17 are not acceptable to the D.O.T. We feel they are
18 just expenses, expenses that should be shared equally,
19 based upon participation.
20
21

22 --

23
24
25
26
27
28 --
29
30



1
2 Q. I see.

3 A. But unfortunately we do not have an
4 acceptance of our opinions and we are not in a
5 position to be able to develop it further because
6 we have no contact..

7 Q. I see. Have you received a visit of
8 officers from the Department of Transport at
9 Duluth to see your operations and discuss with
10 you?

11 A. The visits we have had at Duluth from
12 the D.O.T. are the auditors in, I believe,
13 April of 1963, and March or April of 1964, and
14 Captain Seeley who came with the auditors in 1963.
15 But in 1964 it was just the auditors, and so far
16 as I know those were the only visits by officers
17 of the D.O.T. I do not recall any others.

18 Q. You stated that you had during this year
19 only one waiver to grant in your district. Did
20 you have any complaints from agents about delays
21 to ships, or undue delays to ships?

22 A. We have had no complaints at any time
23 this year from any agent regarding delay of ships;
24 at least, they have not come directly to our office
25 and I seriously doubt they have been made.

26 We have very close and friendly
27 working relations with the agents in Duluth. It
28 is vital because that is where we receive the
29 information on ship movements, anticipated shipping,
30 and we need to have all that in very minute detail
in order to have our pilots placed in the proper



1
2 area at the proper time.

3 Q. Your district obviously requires pretty
4 large expenses in administration and travel. Could
5 you compare the trends between this year, for instance,
6 and the previous years on the basis of the financial
7 statements you have prepared and you know of?

8 A. For the three years that I am closely
9 familiar with, in 1963 the administrative expenses
10 were reduced over 1962 -- not materially, but they
11 were reduced slightly, and considering that at that
12 point and during 1963 the pilots established their
13 own office and their own administrative staff, I
14 think it is rather remarkable that they were reduced.

15 In 1964 they are again lower than
16 in 1963, and I feel reasonably certain -- as certain
17 as one can be at this point -- that they will con-
18 tinue lower than they were last year.

19 Q. I think you said you have an increase of
20 about 40 per cent in the number of trips or in
21 the earnings; what is it?

22 A. Not in the number of trips, in the total
23 pilotage dues that we are collecting. We have had
24 an increase of about 40 per cent there. We have
25 had a decrease in actual dollars in our administrative
26 expenses.

27 Q. What are the main reasons for that decrease?
28 Is it just that you have some expenses which you had
29 to incur and which are not any more to be incurred,
30 or is it more efficiency, or what?

A. It is a general tightening up in every area



1
2 that we could. My first year there we had three
3 full time employees. It was found that they were
4 not necessary. We cut it to two and a half. That
5 is an interesting point, because in this matter of
6 administration expense -- may I digress just a moment
7 and go back to an inter-association settlement
8 problem?

9 In administration expenses I think
10 we have proven this year that that does not increase
11 directly proportionately to the volume of business.
12 There are simple reasons for that. If you do \$500,000
13 gross, or if you do \$300,000, or if you do a million,
14 if you still need only one administrator. So you
15 have no additional cost there. The cost for office
16 space is very, very minutely increased if you have
17 four employees, or five, rather than two and a half.
18 That as well as light, heat and many of the
19 administrative expenses will remain fairly constant
20 regardless of your volume. This is to a degree
21 at any rate.

22 If we this year have a volume of
23 \$400,000 as compared with \$300,000 last year, we
24 actually will have no increase in our administration
25 expenses because we had the area, we had all the
26 necessary requirements. If the coming year we
27 were to increase it from \$400,000 to \$500,000, our
28 increase would be minor and would only be in the
29 area of additional typing help in typing out the
30 invoices, so that would be very minor.

The reason I want to digress is



Kuefner, dir ex.
(Lalonde)

1
2 that in 1962 in the settlement statement with
3 Canada, with the D.O.T., we were forced to accept
4 a settlement that was based upon the administration
5 expenses allowed in District 2 -- the percentage
6 as it applies to the total pilotage. Their pilotage,
7 I think, was over 500,000; ours was under 300,000.
8 It seems to me most obvious that the administration
9 expense does not -- and I just showed you how it
10 does not -- change directly based upon the volume
11 of dollar business you do. So we thought it was
12 a completely unfair settlement, but because of
13 circumstances we were not allowed to press that
14 further.

15 I think those things could be
16 easily handled if we could just discuss them and
17 thrash them out as between two employers for instance.
18 But since we cannot do that it is not fair to point
19 at any one person or any group, the D.O.T. for
20 example, because we know only through transmission
21 through a third party as to what the situation is --
22 and it is not possible to ride thoughts through that
23 party and not lose something in that transmission.

24 So the reason for bringing this
25 up is in the hopes that something can be done to
26 aid this situation.

27 MR. LALONDE: My Lord, I realize
28 that maybe I could finish for six o'clock, but my
29 friends will not have had time to ask any questions,
30 and rather than rush the evidence of the witness
I think it would be fair for the witness and for
the Commission to take all the necessary time for



1
2 it.

3 THE CHAIRMAN: I understand you
4 will not be available before tomorrow afternoon?

5 MR. LALONDE: I can be here for
6 2.30 tomorrow afternoon.

7 THE CHAIRMAN: That means we have
8 to adjourn the testimony of Mr. Kuefner until
9 tomorrow afternoon.

10 MR. LALONDE: Yes, if that is
11 feasible. I understand that the Canadian Merchants
12 Service Guild are ready to proceed tomorrow morning.

13 THE CHAIRMAN: They are ready.
14 Mr. Langois is not here, I think.

15 MR. LALONDE: Yes, but I will see
16 him.

17 THE CHAIRMAN: Tell him we will
18 be available at ten o'clock tomorrow morning.

19 MR. LALONDE: Yes.

20 THE CHAIRMAN: So that is all right.
21 We will adjourn now until tomorrow morning at
22 ten o'clock.

23 For your testimony, Mr. Kuefner,
24 it will be 2.30 tomorrow afternoon.

25 MR. LALONDE: I apologize for
26 having had the Commission stay over, but I tried
27 to finish.

28 THE CHAIRMAN: That is all right.

29 ---Whereupon the hearing was adjourned at 5.45 p.m.
30

ROYAL COMMISSION

ON

PILOTAGE

HEARINGS

HELD AT
OTTAWA

VOLUME No.:
152

DATE:
October 20, 1964

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1
2 ROYAL COMMISSION ON MARINE PILOTAGE

3 Proceedings of the Hearing held
4 in the Exchequer Court Building,
5 Ottawa, Ontario, on Tuesday,
6 the 20th day of October, 1964.

7
8 COMMISSION:

9 The Honourable Mr. Justice Bernier - Chairman
10 Mr. Robert K. Smith - Member
11 Mr. Harold A. Renwick - Member
12 Mr. Gilbert Nadeau - Secretary

13
14 COMMISSION COUNSEL:

15 Mr. Maurice Jacques

16
17
18 PRESENT:

19 Mr. J. Brisset, Q.C. for the Shipping Federation
20 of Canada
21 Mr. Leopold Langlois, Q.C. for the Canadian
22 Merchant Service Guild
23 Mr. Colin Mason for the Dominion Marine
24 Association.



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1 MR. JACQUES: My Lord, we wish to interrupt
2 the evidence given by the Lake Superior Pilots'
3 Association Inc. owing to the absence of Mr. Lalonde,
4 and we are now ready to proceed with the brief present-
5 ed to the Royal Commission by the Canadian Merchant
6 Service Guild. I believe everybody has a copy of the
7 brief. It bears Brief No. 53 and it will be Exhibit
8 No. 1382.

9
10 ---EXHIBIT NO. 1382: Brief of the Canadian
11 Merchant Service Guild.

12 MR. LANGLOIS: My Lord, the first witness
13 is Mr. Victor Barry.

14 ---

15
16 VICTOR BARRY, sworn

17
18 DIRECT EXAMINATION BY MR. LANGLOIS:

19 Q Mr. Barry, would you please state
20 your present address and occupation?

21 A 5675 Cote St. Luc, Hamstead, Quebec.
22 I am Secretary of the Canadian Merchant Service Guild
23 Inc., Eastern Branch.

24 Q Would you briefly describe the nature
25 of your function as Secretary of the Eastern Branch of
26 the Canadian Merchant Service Guild?

27 A Well, as Secretary I am represent-
28 ative of the members of the Canadian Merchant Service
29 Guild Inc. in the Eastern Branch alone. Masters and
30 Mates and Pilots. The Eastern Branch has approximately



1 1200 members. We deal with working agreements with
2 shipping companies. We represent the pilots either
3 to the Government level, legislative ideas, and we
4 give services to all those members, and legal advice
5 through our legal adviser, Mr. Langlois.

6 Q Mr. Barry, I understand you have had
7 sea experience. Would you state first your qualifi-
8 cations as mariner and your experience as such.

9 A I am a holder of the second mate
10 foreign-going and master home trade. I also worked
11 for a company for seven years from 1945 to 1952, for
12 Montreal Shipping as an apprentice and as a third
13 officer. Then, when the deep sea fleets were sold I
14 went to the Great Lakes, and I served for approximately
15 seven to eight years on the Great Lakes with different
16 companies as third, second and chief officer.

17 Q How long have you been Secretary to
18 the Canadian Merchant Service Guild?

19 A A little bit over three years now.

20 Q Do you have a copy of the brief
21 before you?

22 A Yes.

23 Q I am referring to Exhibit 1382. My
24 Lord, before I proceed with further questioning, the
25 examination of the witness, I would like him to file
26 Exhibit 1383, the Constitution and By-Laws, Rules and
27 Regulations of the Canadian Merchant Service Guild.
28

29 ---EXHIBIT NO. 1383: Constitution of the
30 Canadian Merchant Service
Guild.



1 Q Would you describe briefly the
2 Constitution of the Canadian Merchant Service Guild?

3 A Could I have a copy?

4 Q Do you have a copy of the brief?

5 A Yes. The Constitution is an Act
6 of Parliament which was enacted June 6th, 1919 after
7 captains formed an association and they asked the
8 Government to enact their association as a corporation.
9 It is in Paragraph 1, the gentlemen who were involved
10 in this matter.

11 In the second paragraph, it deals
12 with the objects, and the third, that the national
13 office of the Guild is in Vancouver. The affairs of
14 the Guild are managed by a Board of Managers, and
15 in 1958 after lengthy problems of organisation in
16 Eastern Canada, they formed a Canadian Merchant
17 Service Guild Inc. Eastern Branch.

18 Q What was the purpose of this
19 Eastern Branch?

20 A Well, let us put it this way: be-
21 cause the mariners, or the officers on Canadian ships
22 in the East from Fort William to Newfoundland were
23 not organised into one organisation for represent-
24 ation, so the Guild decided to come east and prepare
25 the grounds and form a new organisation. Previous to
26 that it was not a branch, but in 1958 they decided it
27 would be a branch, giving it the same autonomous
28 status.

29 Q Now, Paragraph 4, page 1 of the
30



1 brief reference is made to the Board of Managers.

2 Would you mind telling the Commission how this Board
3 of Management is composed?

4 A First of all, they have a national
5 President, a Treasurer, and I think --

6 Q I am referring the the Management
7 Committee.

8 A Oh, I am sorry. The Management
9 Committee -- well, they have one President of the
10 Eastern Branch. Secondly, they have a Vice-President,
11 one Past President, seven Vice-Presidents of Districts
12 and a representative of different sections of the
13 organisation such as masters, pilots and mates.

14 In the section of pilots they re-
15 quire two representatives, two pilots. The section
16 of masters, they have a representative for home
17 trade, foreign-going and inland, and tugs. In mates
18 they have also foreign-going, inland and home trade.
19 They have one representative for others than the ones
20 that I have mentioned before, which makes at least
21 sometimes up to twenty-six in the management committee,
22 the governing body of the Corporation.

23 Q Now, in Paragraph 6, page 2 of the
24 brief you refer to the membership of the Guild, and
25 in Paragraph 8, page 4, you state that the total
26 membership has remained stable to some 2400 members
27 for some time.

28 Would you mind giving the Commission
29 a break-down percentage-wise, if you wish, of this
30



1 total membership of 2400 members?

2 A Yes, sir. Well, let us say first
3 that there is approximately 1200 members in British
4 Columbia -- on the west coast we call it -- and 1200
5 on the east coast from Fort William to Newfoundland.
6 The break-down of ship masters holding certificates
7 is about 25 percent. Mates holding certificates as
8 required under the Canada Shipping Act, approximately
9 50 percent. Pilots holding licenses issued under
10 the Canada Shipping Act, approximately 15 percent.
11 Non-certificated officers holding permit or licenced
12 position as mate or second mate is approximately 10
13 percent.

14 Now, we have no other persons in
15 the organisation holding officer's rank as determined
16 by the Guild Board -- well, there is no one except
17 masters, mates and pilots.

18 Q You have no apprentices or cadets
19 either?

20 A No.

21 Q Paragraph 7 of the brief you refer
22 to the groups of pilots belonging to the Guild.
23 Would you mind giving the Commission how many pilots
24 you have in each of the groups therein mentioned?

25 A Yes, sir. The Corporation of
26 British Columbia Coast Pilots, we have 70 pilots.

27 THE CHAIRMAN: That means all of
28 them?

29 THE WITNESS: Yes, sir. The pilots
30



1 of New Westminster, Fraser River pilotage district, 7.
2 That is complete. Pilots of the pilotage district
3 of Saint John's, Newfoundland, 8. Pilots of the
4 pilotage district of Sydney, 11. Pilots of the pilot-
5 age district of Halifax, 8. I might say here, 16,
6 and we have only 8 in our organisation.

7 Pilots of pilotage District Saint
8 John, New Brunswick, 9. Members of the Corporation
9 of Lower St. Lawrence Pilots, 82. Members of the
10 Corporation of Mid-St. Lawrence Pilots, 123. Members
11 of the Corporation of Montreal Harbour Pilots, 16.
12 Members of the Corporation of St. Lawrence River and
13 Seaway Pilots, 22, and members of the Corporation of
14 Upper St. Lawrence Pilots, 20.

15 Q Now, on page 4, in Paragraphs 9,
16 10 and 11, and also Paragraph 12 on page 5, mention
17 is made of the formation of the National Pilots'
18 Committee. Would you describe the events which led
19 to the formation of this group, and the reasons for
20 its formation?

21 A I think it is 1948, if my memory is
22 not at fault there, that pilots across Canada decided
23 that it would be profitable to them to form an organi-
24 zation within the Canadian Merchant Service Guild so
25 that it would have at least once a year meetings and
26 discuss their problems on a national basis, and make
27 representation, due process of representation to dif-
28 ferent levels of the Government and companies with
29 their problems on a national basis. So they formed
30



1 the national Pilots' Committee, Canadian Merchant
2 Service Guild Inc.

3 If I am not mistaken the first
4 President of the organisation was Captain Gosse, who
5 is deceased.

6 Q Now, how is the Committee presently
7 composed? Who are the members of this Committee?

8 A Well, all the pilots across Canada
9 who are in the Canadian Merchant Service Guild are
10 part of the National Pilots' Committee. Their re-
11 presentation is appointed by their own Committee.
12 Each Corporation, each district appoints two men on
13 the National Pilots' Committee, but on the matter of
14 voting, only one is entitled to a vote. That means
15 Vancouver is entitled to send two, Fraser River is
16 entitled to send two, and so on, right up to
17 Newfoundland. Now, they meet at different places
18 every year. They decide that at the Convention every
19 year.

20 Q Who at present is the Chairman of
21 this Committee?

22 A The Chairman at present is Captain
23 R. Cobham, of Saint John, New Brunswick.

24 Q Who are the other officers?

25 A The other officers, we have
26 Captain Collins of St. John's, Newfoundland, who is
27 Eastern Vice-Chairman, and Captain McKay of Vancouver,
28 B.C. who is Vice-Chairman of the West Coast. They
29 have a liaison officer, Captain Gaston Marseille for
30



1 the River, which is not in the By-Laws, but they have
2 recorded that because, well, they want some liaison
3 with the river pilots.

4 Q Now, in Paragraph 12 on page 5
5 mention is made of the rules and regulations of the
6 National Pilots' Committee. If you would care to file
7 as Exhibit 1384 Canadian Merchant Service Guild rules
8 and regulations of the National Pilots' Committee.

9
10 ---EXHIBIT NO. 1384: Rules and regulations
11 of the National Pilots'
12 Committee.

13 Q In your functions as Secretary of
14 the Eastern Branch of the Canadian Merchant Service
15 Guild, are you called upon at times to act as
16 Secretary of the meetings of the National Pilots'
17 Committee?

18 A Yes, sir.

19 Q Have you done so recently?

20 A Well, two years ago, but not last
21 winter. Yes, two years ago.

22 Q Was this the last time that you
23 were called upon to act as --

24 A No, I was called upon last winter,
25 but I couldn't make it, so the Assistant Secretary
26 of the Eastern Branch went up to Newfoundland.



1 Q Mr. Barry, on page 5, again

2 Paragraph 13, of the brief mention is made of a special
3 meeting of the National Pilots' Committee held in
4 Montreal. Will you tell the Commission who was act-
5 ing as Secretary of such meeting?

6 A I was.

7 Q You were?

8 A Yes.

9 MR. LANGLOIS: Thank you, Mr. Barry.

10
11 EXAMINED BY MR. JACQUES:

12 Q With regard to legal advice which
13 is provided to members, I believe this falls under
14 Section 92 of the regulations?

15 A The rules and regulations, yes.

16 Q Would that benefit be available in
17 any case in matters arising out of the profession?

18 Would you provide legal advice, say, in
19 the matter of drunkenness?

20 A Well, I don't know if I can answer
21 that, because when we provide legal advice we are not
22 aware that the man is accused of drunkenness right
23 there and then. We don't know if he has been or not.
24 It is an impossibility for us to do so.

25 Q I will make my point clear. If my
26 memory serves me rightly, the suspension benefits
27 paid by some pilots' associations -- for instance,
28 the Quebec districts -- do not cover cases where the
29 pilot is suspended because of drunkenness; so they
30



1 make an exception in the benefits of the grant. I
2 wonder if there are any exceptions to the provision
3 of legal advice which is granted by the Guild?

4 MR. LANGLOIS: My Lord, I just wish
5 to draw the attention of the Commission to the fact
6 that this section is not mandatory on the Guild, be-
7 cause it reads:

8 "Members of the Committee may,
9 when a matter requires legal advice, or as-
10 sistance..."
11 and so on.

12 "... providing a defence."

13 But I draw the attention of the
14 Commission to the word "may".

15 THE CHAIRMAN: In Section what?

16 MR. LANGLOIS: Section 92, page 27,
17 My Lord.

18 MR. JACQUES: I do not doubt that
19 my learned friend is right, but, nevertheless I
20 should like to know more precisely what benefits do
21 you usually grant?

22 A Well, I can explain it this way:
23 If the gentleman in his profession is employed on
24 ships, no matter if he is a master, or a mate or a
25 pilot, and he requires legal advice it is mostly be-
26 cause he is dragged into an investigation because of
27 an accident, and so on, and the Guild furnishes the
28 same without any question at the time; because most
29 of the time it is not proven. Let us put it right.
30



1 It is not proven that the gentleman was drunk or not,
2 and nobody knows. Nobody is guilty before he is
3 found guilty, really; so we could say that the Guild
4 furnishes the same.

5 Q So to all intents and purposes the
6 legal advice which you provide, although it is not
7 mandatory upon the Guild to do so, covers all cases
8 regardless of the nature of the charge?

9 A Yes.

10 Q It does?

11 A Yes.

12 Q So long as the charge arises out
13 of his profession?

14 A The profession of the gentleman...?

15 Q ...concerned, yes?

16 A Yes.

17 MR. LANGLOIS: I am sorry to inter-
18 rupt, and I don't wish to give evidence, but I have
19 had quite a bit to do with cases of this nature...

20 THE CHAIRMAN: I was just going to
21 say that you were a proper witness to answer these
22 questions.

23 MR. LANGLOIS: Provided I were not
24 called upon to divulge any professional secrets I
25 would be willing to take the stand.

26 But, I wish to state at this time
27 that each case is studied on its own merits, and I
28 can say that in all cases, to my knowledge, where it
29 was evident from the very start that it was a case of
30



1 drunkenness, the management committee refused to
2 defray the cost of a legal defense.

3 THE CHAIRMAN: The same procedure
4 which an insurance company would take in the case of
5 a motor vehicle accident, with regard to this pro-
6 vision -- that they will not cover for drunkenness;
7 but when there is a doubt they go in, and where there
8 is no doubt, they do not.

9 MR. LANGLOIS: And I should add
10 this, that the cost of legal defence is now shared
11 evenly between the Merchant Service Guild and the
12 Navigators' and General Insurance Company; and the
13 underwriter is covering the licences of the pilots;
14 and there is such an exclusion also in the policy of
15 the Navigators' and General Insurance Company.

16 THE CHAIRMAN: Yes; I have studied
17 that policy. I think it is the same as they have in
18 British Columbia.

19 MR. LANGLOIS: Yes.

20 MR. JACQUES: Q To sum up, ex-
21 cept in cases where it is evident that there was
22 drunkenness you do provide legal fees?

23 A Well, I could put it this way to
24 you, that in the last three years -- I have only
25 been the Secretary of the organisation for the last
26 three years -- I never heard of a case of drunkenness.
27 I don't know -- if they can find one, that is fine
28 and dandy -- but so far as I know, I never heard of
29 one.
30



1 Q Now, would you take the Constitution
2 and the Rules and Regulations, page 7, Section 7 --
3 General and Benefit Funds. Have you any benefit funds
4 applicable to pilots apart from legal aid?

5 A Which section is that?

6 Q Section 7 --

7 "There shall be established a
8 general or expense fund from which shall be
9 paid all the expenses of the Guild, and there
10 shall also be established such benefit funds
11 as the superintendent of insurance may from
12 time to time direct."

13 A No, we have no such funds.

14 Q You have none now? Have you had
15 any?

16 A To my knowledge, no.

17 Q The Board of Management of the
18 Guild, as I understand the evidence, is not elected
19 at a meeting?

20 A No; by secret ballot.

21 Q And would you further explain how
22 you further proceed?

23 A Well, nominations are made through
24 the mail.

25 Q Through the mail?

26 A Yes. Every member receives the
27 papers for nomination so far as they are concerned,
28 in the section they belong to, and they are sometimes
29 also asked to nominate a president if the president
30



1 is called for election that year, and so on.

2 They have two months for such action.
3 They send back the nomination papers to the office in
4 care of the Secretary; and on the receipt of all these
5 nomination papers a letter is sent to the gentleman
6 in question who is nominated to ask him if he is will-
7 ing to accept the position which he is nominated for
8 and to go in the election also. If he accepts then
9 his name is put on the special ballot which is sent
10 to all the members.

11 Now, the ballots are returned pre-
12 vious to an annual meeting, and at the annual meeting
13 the President of the Eastern Branch, or the Board of
14 Management in Vancouver, appoints scrutineers and
15 counters and so on and they count -- the envelopes
16 are opened at that time and the secret ballots are
17 opened at that time and they are counted, and whoever
18 is elected is appointed that day for the position
19 they were elected for.

20 Q But the election does not take place
21 at the meeting for that particular purpose?

22 A No.

23 Q It is done through the mail?

24 A Yes; but for the National Pilots'
25 Committee it is a different matter.

26 Q I haven't reached that point yet.
27 Can you explain to the Commission the reason for this
28 rather unusual election procedure?

29 A Well, yes; because the members are
30



1 spread from Fort William to Newfoundland or from
2 Vancouver right up to Alaska. It is impossible to
3 reach them or have them at one meeting or two meetings,
4 really. The only way we can have meetings is to
5 have them here and there. It is impossible to do it
6 otherwise.

7 THE CHAIRMAN: I think at certain
8 times of the year a meeting would be looked upon
9 with suspicion because it might be thought that you
10 were going to strike! And this would be true in
11 British Columbia for all of the twelve months.

12 THE WITNESS: That is right. But
13 they have a different manner out on the West Coast.

14 Q With regard to the Pilotage
15 Committee, or the Pilots' Committee...

16 A I should call it the National
17 Pilots' Committee.

18 Q Here, again, there is no meeting
19 of all the pilots in order to elect its members, but
20 there is nomination from each district; is that
21 right?

22 A Yes; but the representation is not
23 spread out there. Each Corporation, or each pilotage
24 district is entitled to appoint a representative to
25 the National Pilots' Committee, which they do at
26 their own meeting; and as such, they are sent to the
27 National Pilots' Committee Convention and there is
28 an election on secret ballot at the Convention for
29 the National Chairman and the Vice-President.
30



1 Q Out of the members appointed by the
2 various Corporations, or the various districts?

3 A Yes, that is right.

4 Q Do you know the procedure which is
5 followed in the districts to choose the representative?

6 A No, I am not very familiar with that.

7 MR. LANGLOIS: My Lord, may I inter-
8 rupt here? In order to further clarify the testimony
9 which is presently being given I could file, with Your
10 Lordship's permission, the report of last meeting of
11 the National Pilots' Committee where you would have
12 a very good idea of the representation at this meet-
13 ing and also the procedure followed. This could be
14 an exhibit.

15 THE CHAIRMAN: It could be attached
16 to Exhibit 1384.

17
18 ---Attached to EXHIBIT NO. 1384: Report of 18th
19 Annual Convention
20 National Pilots'
21 Committee, held in
St. John's, Newfoundland
in February, 1964.

22 MR. JACQUES: I note also that the
23 voting on the Pilots' Committee is by district?

24 A Yes.

25 Q Will you explain the reason for
26 that particular voting?

27 A Well, the reasons I am not sure of,
28 because I was not at the first meeting of that
29 organisation, but I can surmise that each Corporation
30 or pilotage district is entitled to one vote so that



1 they will have a chance to put up their own ideas or
2 their own desires to the National Pilots' Committee
3 for what they are after.

4 Q It seems to me -- I may be wrong,
5 and if I am will you correct me -- that the pilots
6 are individual members of the Guild and that the
7 Pilots' Committee is formed of districts?

8 A That is right.

9 Q That is correct?

10 A Yes.

11 Q Now, you know that in Canada we
12 have both licensed and registered pilots?

13 A Yes.

14 Q Perhaps it is an omission since the
15 law has been amended that your rules relate only to
16 licenced pilots?

17 A Well, I am under the impression
18 that in the Canadian Merchant Service Guild we have
19 only licenced pilots. I am not sure if we have any
20 registered pilots.

21 Q So, you have no pilots working under
22 the prevailing rate regulations in your organisation?

23 A The what?

24 Q Under the prevailing rate regulations?

25 A Oh, yes; we have two.

26 Q From what district?

27 A From the Port Weller-Sarnia District.

28 Q They are not licenced, they are
29 registered; so that the ballots in District No. 1 are
30



1 both licenced and registered?

2 A Well, it is very confusing to me,
3 because so far as I am aware...

4 MR. LANGLOIS: I am sure that your
5 counsel will see that the word "registered" is
6 inserted.

7 I wonder if the Commission would
8 like to know the extent to which legal services have
9 been provided?

10 THE CHAIRMAN: I think we had evi-
11 dence to that effect, because we have heard the
12 Department so far.

13 MR. JACQUES: I am not particularly
14 concerned with that angle, but from a cross-Canada
15 and knowing the times they provided the service and
16 the nature of the services and the accusation under
17 which the pilot laboured.

18 THE CHAIRMAN: I don't know whether
19 this is necessary for us. We know that whenever
20 such a situation arises the services could be provided
21 both by their insurance and by the Guild; and we know
22 that they are.

23 MR. JACQUES: I will not embarrass
24 my learned friend by asking the extent of the financial
25 assistance!

26 MR. LANGLOIS: Do you want to know
27 if they are good clients, or not!

28 Q In the course of the evidence heard
29 in Montreal on the 8th of October, 1963, when Captain
30



1 Bedard had the stand reference was made to a memo,
2 and I will quote:

3 "This point has been clearly
4 set out by the Canadian Merchant Service
5 Guild, Eastern Branch Division, which, at
6 its last annual general meeting on March
7 22, 1961, adopted the following resolution
8 which was sent to the Minister of Transport..."
9 and the resolution is reproduced at pages 3607 and
10 following of Volume 75 of the transcript. I wonder
11 if you were in the office then?

12 A Which year?

13 Q In 1961?

14 A 1961? Yes, I think so. Well, I
15 was not appointed definitely -- I should say I was
16 appointed, but I was employed in the office at the
17 time.

18 Q But you were not the secretary?

19 A No; that is right. Two months pre-
20 vious to my appointment I was in the office; and if
21 my memory doesn't play tricks on me I remember this
22 matter being brought up that day.

23 Q Would you have your file with you
24 for that meeting?

25 A No, not right here; I don't think
26 so.

27 Q I wonder if you would look up your
28 files and let us know, whether, apart from the parti-
29 cular resolution which is reproduced in the evidence,
30



1 there is anything else concerning the matters raised
2 by this resolution?

3 A All right.

4 Q We could have the text, if you wish?

5 A Yes.

6 Q Now, it was mentioned, in the course
7 of the evidence heard in Montreal on January 17th, by
8 Captain Mathewson, that once, in 1957, he had met a
9 representative of the Canadian Merchant Service Guild
10 who advised that he had been instructed by the
11 committee representing the Quebec pilots that the
12 Guild was negotiating an agreement, or had been in-
13 structed to negotiate an agreement, with the Shipping
14 Federation. That was in 1957 -- before your time also?

15 A Yes.

16 Q Would you search your 1957 files
17 and also, perhaps, the end of 1956, to find out
18 whether there was any resolution adopted by the Guild
19 in that respect, or any correspondence exchanged
20 between the Guild and anyone else?

21 A The Shipping Federation?

22 Q Yes; or the pilots, or anyone else,
23 for that matter.

24 A All right.

25 Q Would also prepare the list of the
26 members of the Pilots' Committee for the last five
27 years?

28 A Yes.

29 Q Let us say, from 1958...
30



1 THE CHAIRMAN: We will add that to
2 Exhibit 1384.

3 MR. JACQUES: Very well, My Lord.

4
5 ---To be added to EXHIBIT NO. 1384: List of members
6 of Pilots' Committee
7 from the year 1958.

8 MR. JACQUES: There were a few
9 other questions which, in view of the fact that we
10 do not know whether any documents would be filed, or
11 not, it might be preferable to give a number right
12 now.

13 THE CHAIRMAN: Which are these?

14 MR. JACQUES: A few other requests
15 I made.

16 THE CHAIRMAN: All right. That will
17 be Exhibit 1385.
18
19
20
21
22
23
24
25
26
27
28
29
30



MR. JACQUES: 1385, My Lord.

---EXHIBIT NO. 1385: (To be produced) Documents related to a resolution of the pilots' committee, dated 22nd March, 1961, together with documents relating to negotiations between the Canadian Merchant Service Guild and the Shipping Federation and/or other parties with respect to pilotage.

CROSS-EXAMINATION BY MR. BRISSET:

Q Mr. Barry, what are the affiliations of the Canadian Merchant Service Guild?

A The Canadian Merchant Service Guild is affiliated with the Canadian Labour Congress.

Q Any other affiliations with similar associations in the United States or in England?

A No, sir. Oh, yes, in England yes. They have a funny name -- the Association of Marine Officers and, not airforce pilots, but the pilots on the planes. They have quite a big association and we are affiliated with them. We do not pay per capita but it is only in the matter of international interest in transport.

Q The Guild does contribute a due to this British association?

A No.

Q Just --

A We pay only per capita to the Canadian Labour Congress; that is the only one.

Q What is the per capita due payable



1 to the Canadian Labour Congress?

2 A Eleven cents per member per month.

3 Q As regards the dues payable by your
4 members to your Guild in the case of pilots belonging
5 to one or the other of the Corporations in the St.
6 Lawrence River will you tell us how these dues are
7 paid, whether they are paid by each pilot individually
8 or by the Corporation of their district or by the
9 Federation of the St. Lawrence River Pilots?

10 A In the St. Lawrence River Pilots
11 each Corporation sends us a list of their pilots
12 with the amount of money paid by the pilot. Where
13 they take the money is none of my affair. As far as
14 I am concerned each member is tabulated for the amount
15 and it is credited to his name.

16 Q And you receive the remittance of
17 the Corporation?

18 A Yes.

19 MR. LANGLOIS: Thank you, Mr. Barry.

20 THE CHAIRMAN: Are there any further
21 questions of Mr. Barry?

22 Thank you.

23 ---WITNESS WITHDREW
24

25 MR. LANGLOIS: My Lord, since two
26 of my witnesses are indisposed owing to eating bad
27 food last night -- I won't say where -- I will have
28 to change the order of these witnesses and would like
29 now to call on Pilot Hamelin to deal with the chapters
30



entitled Aids to Navigation and Under-keel Clearance.

ORANCE HAMELIN, sworn

MR. LANGLOIS: I presume I can dispense with the usual opening questions of asking Mr. Hamelin about his qualifications and so on?

THE CHAIRMAN: We will refer to the past testimony.

DIRECT EXAMINATION BY MR. LANGLOIS:

Q Pilot Hamelin, on page 33, Paragraphs 69 to 71, inclusive of the brief mention is made of aids to navigation. Would you care to elaborate on what is contained in these paragraphs?

A Well, we have complained for the last year about our leading lights not operating properly. For an example, there is one leading light very important for the stretch going by Three Rivers, the low light on Lottinville. There is a tree blocking it and it has been so since last spring. Apparently, the Department are bickering with the owner of the land about the price of the tree. They want so much money to cut it down and apparently until they come to some agreement the tree is staying there, you see. Well, in the meantime we have no range lights.

Another one at Becancour; we built the front light but it is so low, you see, that the



1 trees are growing in front of it. This is a very,
2 very sharp curve and at all times we need to see the
3 two lights to be able to make this turn, you see.
4 Well, for a space of time we lose the front light
5 and all of a sudden it shows up in a cut that they
6 have made, you see. Really, it is not safe; it is
7 not proper.

8 THE CHAIRMAN: This is the first
9 time that we have heard about that. Have you made
10 reports on that or complaints about that?

11 THE WITNESS: Yes, My Lord, we
12 have. As a matter of fact, I think if Mr. Lalonde
13 were here, we have asked him to write directly to
14 Ottawa about this.

15 THE CHAIRMAN: I would like that
16 this correspondence should be filed. I would like
17 to find out why it was not corrected if it is a
18 question of security or aids to navigation. If
19 there is a question of security involved or safety
20 involved I do not know why immediate steps are not
21 taken.

22 THE WITNESS: My Lord, the reason
23 they have given was that the District marine agent
24 at Sorel has told us that the personnel he has on
25 hand were busy building a new set of ranges in
26 Montreal Harbour and they could not find time to go
27 down and fix this other place, you see. The traffic
28 is tremendous there and it is a very sharp curve on
29 the Becancour there.
30



1 THE CHAIRMAN: What is the use of
2 these range lights if you cannot use them?

3 MR. LANGLOIS: My Lord, I could
4 make a search of the file and see if there is any
5 correspondence.

6 THE CHAIRMAN: Thank you, very much.
7 We are going to look into that.

8 MR. LANGLOIS: Q Now, Mr. Hamelin,
9 in Paragraph 69 mention is made of difficulties ex-
10 perience in passing on or getting information re-
11 garding aids to navigation. Would you care to explain
12 further what is meant by this?

13 A Well, My Lord, I think we have
14 mentioned this before. So you report a light on
15 Thursday, Thursday night -- the light or the buoy out,
16 you see. Well, if the report does not arrive early
17 enough Friday morning to the District agent it means
18 that it is probably Monday night or Tuesday before the
19 fault is corrected.

20 You see, all through the week-end
21 there is no one available to fix the range light or
22 the buoy, you see. Well, you must sometimes wait
23 three or four days without this aid to navigation,
24 which I think is not right.

25 It is a danger to navigation.

26 THE CHAIRMAN: In other words, it
27 is not treated as a public service. If you have an
28 electricity cord broken on Saturday night you can call
29 the power company and it is going to be re-established
30



1 within a few minutes. This is not being carried out
2 with the Government; is that what you mean?

3 THE WITNESS: On the week-end the
4 ships are not operating; they have to wait until
5 Monday morning before they start again.

6 THE CHAIRMAN: We do not know why.
7 Would that be because they are public servants and
8 therefore they have some set rules as to when they
9 should work and after a certain time they are not
10 working? This system would not be appropriate for
11 a public service looking after safety.

12 THE WITNESS: Yes, My Lord. I
13 think for the purpose of this -- you see, today most
14 of our work is done at night, night navigation, and
15 I think we should have a seven-day crew to be able to
16 man these buoys or lights if they are out of order.

17 MR. LANGLOIS: Q Would you mean
18 to say by this, Mr. Hamelin, that say for example if
19 a ship reports an aid to navigation out of order on
20 a Sunday or legal holiday, there will not even be a
21 notice to mariners issued before the following day?

22 A Well, the notice to mariners --
23 the radio station --

24 Q I mean notice to shipping, I should
25 say.

26 A Well, they broadcast the light and
27 the buoy out, you see, but nothing is done to correct
28 this situation until a normal working day. You see,
29 you might have a notice within two or three hours on,
30



1 like, Monday, Labour Day and that and then it goes
2 on to Tuesday or maybe Wednesday before the correct-
3 ion is made.

4 Q I understand, Mr. Hamelin, that on
5 legal holidays and Sundays the District marine agent's
6 offices are closed and that since the marine agents
7 are responsible for the issuance of notices to ship
8 ping, how could they then broadcast such notices on
9 legal holidays if they are not available because they
10 are closed?

11 A Well, Mr. Langlois, I believe the
12 stations like Montreal, Three Rivers or Quebec are
13 doing it as a favour to us. We report it to them and
14 we ask, you know. Previously they had to receive
15 orders before they were allowed to broadcast that
16 such a light or such a buoy was out. But now ap-
17 parently they have changed some of their orders be-
18 cause now sometimes an hour after we do report a
19 light or a buoy they will broadcast it on the next
20 notice to mariners. They will say, well, such and
21 such a light is out, or buoy, until it is repaired.

22 Q Do you mean by this that in the
23 case for example of a buoy in the Quebec district
24 being out and being reported as such by a ship on
25 Sunday to Quebec radio, the operator of Quebec radio
26 will take the responsibility of issuing a notice to
27 shipping without reference to the Quebec marine agent?

28 A Well, I know this is being done at
29 Three Rivers anyway. I could not say for sure at
30



1 Quebec, but at Three Rivers the operator gives it
2 out on the next notice to mariners.

3 THE CHAIRMAN: Yes, but there should
4 be a better system. Maritime traffic is not a five-
5 day week business. It is seven days and 24 hours a
6 day; so is pilotage and so should be all the services
7 connected with that, I think, or at least there should
8 be a skeleton staff or a liaison or something, so that
9 in case of urgency something could be arranged.
10 What you say there is that you have difficulty when
11 something happens during the week-end.

12 THE WITNESS: Very much so.

13 THE CHAIRMAN: And there is no
14 liaison anywhere; that is what you are complaining
15 about?

16 THE WITNESS: Yes.

17 MR. BRISSET: I might even add,
18 My Lord -- and possibly Pilot Hamelin may confirm
19 this -- that there may even be heavier traffic over
20 the week-end as the ships do not like to stay in
21 port where they cannot work.

22 THE CHAIRMAN: Yes.

23 MR. LANGLOIS: Q Do you confirm
24 this?

25 A Yes, quite so.

26 MR. JACQUES: I might be accused
27 again of being counsel for the Department, but I
28 think we have lengthy evidence in Montreal to the
29 effect that although it is true that repairs may not
30



1 always be carried out over the week-end, broadcasting
2 goes on 24 hours a day even though it is during the
3 week-end.

4 THE CHAIRMAN: We will bring these
5 facts in order that we have before us when we review
6 the evidence and if we find there is something miss-
7 ing there or not clear we can get it afterwards in
8 order to find out, because I think that it is a
9 service all week and especially during the week-end
10 when traffic is heavier. Of course, there should be
11 some way to see that the lights are fixed for navi-
12 gation and safety -- that they should be kept up --
13 or notices should be given anyway.

14 COMMISSIONER SMITH: May I ask the
15 witness one question, My Lord?

16 Captain, you have given us one in-
17 stance of a set of range lights being out of order.
18 Have you any other instances that you can quote of
19 your own personal knowledge or of any other inform-
20 ation that has come to you about aids to navigation
21 being out of order?

22 THE WITNESS: Not quite out of
23 order, Mr. Commissioner. But if you will recall there
24 was a discussion in front of this Commission about
25 the angle of range lights being changed, you see.
26 Apparently the district agent at Sorel said he con-
27 sulted...They had two range lights as tests last year
28 -- Pointe Du Lac and Ile Du Pont -- and the district
29 agent says that after so many days in operation he
30



1 consulted the pilots, you see, and the pilots said
2 that they were satisfied with the lights. Now, it
3 is beyond me whom he consulted because the Board of
4 Directors -- no one heard about this.

5 THE CHAIRMAN: It should be the
6 Pilots' Committee.

7 THE WITNESS: No one heard of this
8 test being made, you see, and then they went ahead
9 and altered the other range lights in the river be-
10 tween Montreal and Quebec. Now, we have asked that
11 they bring them back to what they were, you see.

12 THE CHAIRMAN: It is provided in
13 the By-Laws that there is a Pilots' Committee through
14 which everything is to be filed, so I think if this
15 could be recognized it could be easier.

16 MR. LANGLOIS: My Lord, if I may
17 be allowed to just make a remark concerning this
18 practice of the operators of some radio stations in
19 taking upon themselves the responsibility to issue
20 notices to shipping on the report from any ship, I
21 wish to draw the attention of Your Lordship to the
22 fact that this might be a dangerous practice because
23 the operator of a radio station has not the qualifi-
24 cations to check as to whether or not the information
25 is accurate.

26 THE CHAIRMAN: Yes, that we under-
27 stand, but we should surmise that they are aware of
28 the situation. This is allowed and I suppose they
29 are well briefed to take care of these situations.
30



1 Maybe this is the way they are dealing with the matter.

2 MR. JACQUES: My Lord, Mr. Monague
3 in Montreal gave lengthy evidence on that particular
4 point and I think he was quite frank. He was not all
5 in favour of the Department of Transport with every
6 step that they took, but if my memory serves me
7 right it was evident that everybody relied on the
8 pilot's word. Also, they had some complaints about
9 the pilots being so familiar with the River that
10 they would say, well, the red buoy before the church
11 of so and so is out and it is in evidence that the
12 operator had to get back at the pilot and say:
13 "For Heaven's sake, what is the number of the buoy?"
14 In some cases they were not even able to obtain the
15 answer.

16 MR. LANGLOIS: My Lord, I grant
17 that in the case of a buoy being reported by a pilot
18 the danger is non-existent, but they are not the
19 only ones reporting aids to navigation out of order.
20
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1 For example, I have in mind that
2 the owner of a yacht with very little practical
3 knowledge of the River could make such a report and
4 the report could be false but taken as being exact
5 by the operator of the radio station who would send
6 a notice to shipping which might not be in accordance
7 with the facts. That is what I have in mind. That
8 is where the danger exists.

9 THE WITNESS: My Lord, I agree
10 with Mr. Langlois. One night there was an instance
11 where, in a very, very difficult part of our River,
12 we have range lights on each end of that course, and
13 both range lights were out, and I called the station
14 at Three Rivers because there was some very deep-
15 loaded ships coming down, and I said it is urgent,
16 would you broadcast it that two sets of range lights
17 are out so these ships can anchor before they get to
18 this difficult course, and he did, you see. He did on
19 his own, I suppose, but I think they should in all
20 cases like that.

21 THE CHAIRMAN: From what I gather
22 it would be with the approval of his authority because
23 they know this is going on.

24 The question is, is it not a fact
25 in the case of a pilot that he is asked by the operator
26 before the notice to shipping is sent out to give his
27 name, and he has to sign some kind of a document
28
29
30



1 attesting that he has reported that such aids to navi-
2 gation are out of order.

3 THE WITNESS: Yes, we have to give
4 our name, the name of the ship, the time and our
5 destination, and when we arrive at the office we have
6 to sign a form corroborating this complaint, this
7 report that we have made.

8 Q Even though this practise is in
9 existence, would you still agree with the recommendations
10 contained at the end of Paragraph 69 of the brief,
11 page 33, to the effect that the offices of the marine
12 agents should be at least partially manned or staffed
13 over the week-end?

14 A By all means, My Lord.

15 THE CHAIRMAN: Either that or a
16 system of liaison or stand-by, or something like that.

17 Q Now, in Paragraph 71 you mention
18 modifications to aids to navigation without prior con-
19 sultation with pilots. Has it been brought to your
20 knowledge that pilots have ever been consulted in con-
21 nection with modifications to aids to navigation in the
22 past?

23 A Not that I know of. One time, I
24 believe -- I must be fair -- I think when they decided
25 to do away with a set of range lights on the Upper
26 Champlain course, they consulted the directors about
27 placing buoys to replace the range lights. That is
28 the only instance where I recall ever being consulted,
29 but some others might have been, I don't know.
30



1 Q Mr. Hamelin, in the same paragraph
2 you give an example of modification to aids to navi-
3 gation in the channel between Montreal and Quebec.
4 Would you care to further elaborate on what was done
5 in this instance, and what was the result of this
6 change?

7 A How do you mean, about the range
8 lights?

9 Q Yes. The arc of visibility of
10 range lights which was modified.

11 A Well, what is happening now, you
12 see, I believe they have tried to adopt a system that
13 they use in the United States, some channels in the
14 United States, but here especially in the spring and
15 the fall of the year when we have no buoys, no light
16 buoys, we use these range lights sometimes quite a
17 way before we do get to the range lights.

18 THE CHAIRMAN: As a feature of the
19 landscape?

20 THE WITNESS: Yes. Before we used
21 to wait to the first time we see the light, and when
22 the light comes in focus -- now, it is all changed.
23 We can't navigate with these range lights any more,
24 and sometimes we can't see them. Until we are right
25 on the course we can't see them. You take at Batiscan,
26 we can tell the range lights before we get to the
27 critical position if they were burning. But now we
28 can't. When we do realize that they are out, it is
29 too late. We are in the channel, and there is no
30



1 turning around. We have to either get through or go
2 ashore.

3 MR. JACQUES: Has that happened
4 since the change has been made that the Batiscan light
5 has been out?

6 THE WITNESS: Not out, but we can't
7 tell if they are burning until we are right in the
8 range, you see.

9 MR. JACQUES: I realize that, but
10 I wanted to know whether you are talking about some-
11 thing which actually had happened or something which
12 could happen.

13 THE WITNESS: Which could happen.
14 Right now, we have the gas buoy, it is not so im-
15 portant, but as soon as they remove the gas buoy we
16 will have to keep on going. The ship will have to be
17 delayed.

18 MR LANGLOIS:

19 Q You mean, the way of light pro-
20 jected by these range lights is so now, that you have
21 to have two lights practically in line before you can
22 see either of them?

23 A Correct, sir.

24 THE CHAIRMAN: In other words, now
25 the range light serves only as a range light; not as
26 a landmark?

27 THE WITNESS: Yes.

28 THE CHAIRMAN: It is like a church.
29 If you tear down a church in the neighbourhood over
30 there, this landmark would be missing.



1 MR. LANGLOIS: My Lord, I am
2 through with my examination of this chapter. If we
3 have cross-examination now on this chapter -- before
4 we do so, in my endeavour to shorten this evidence
5 I asked for leave to dispense with my asking the
6 witness about his qualifications, ^{and} /I forgot to ask him
7 a question as to what role he plays on the Board of
8 Management Committee of the Canadian Merchant Service
9 Guild presently.

10 THE WITNESS: I am representative
11 of the pilots for the East Coast.

12 THE CHAIRMAN: In regard to these
13 range lights that are being obscured by growing trees,
14 one thing that should be looked to by us would be to
15 find out what kind of title the Crown owns when these
16 range lights are installed as to whether there is an
17 easement to give the Crown the right to enter those
18 private properties and cut trees right then because
19 they are obscuring the very purpose for which the
20 range lights are put.

21 I am pretty sure this exists;
22 otherwise there would be no use having range lights
23 established, so we will look into that. Therefore,
24 there is no reason why there should be any delay;
25 the obstruction to be just cut down. The same thing
26 exists right now under the power lines. Nothing is
27 supposed to grow under them. They can't even spray
28 acid or anything to prevent the growing of weeds.

29 Q Now, My Lord, as to the chapter
30



1 entitled Under Keel Clearance, pages 37, 38, paragraphs
2 76 to 79, inclusive -- in paragraph 76, Mr. Hamelin,
3 mention is made of consultation as between the harbour,
4 the Seaway and the ships' channel authorities in con-
5 nection with minimum under keel clearances.

6 Is it your knowledge that such con-
7 sultations have ever taken place in your district?

8 A You mean between the Authority and
9 ourselves?

10 Q Yes.

11 A No, sir.

12 Q In the past have pilots made re-
13 commendations to any of those authorities asking for
14 the promulgation of under keel clearances in the
15 Montreal-Quebec district?

16 A We have, sir. The last four or
17 five years through the National Pilots' Committee,
18 and through our own corporation we have asked that
19 the ruling that existed for Montreal Harbour through
20 the Board of Trade should apply to Sorel and Three
21 Rivers or any port within the District of Montreal.

22 Q Did these resolutions refer only
23 to the St. Lawrence District or did they refer to
24 other pilotage districts in Canada?

25 A Well, I am not sure, Mr. Langlois,
26 but I believe they referred only to the Montreal-Quebec,
27 I believe, unless lately some other districts have
28 asked for this clearance. I couldn't say for sure.

29 Q In Paragraph 77, you make mention
30



1 of the phenomena which should be taken into account in
2 establishing bottom of under keel clearances. Would
3 you care to further elaborate on this?

4 My Lord, in this respect the
5 Commission might refer for the sake of brevity to
6 the excellent paper which was filed, and I have for-
7 gotten the name of the exhibit, but it was a study of
8 the behaviour of larger vessels I think belonging to
9 Shell.

10 THE CHAIRMAN: Yes.

11 Q In narrow channels and harbour
12 entrances. Do you have anything to add to what has
13 already been said in this respect, and what is now
14 in the brief in Paragraph 77?

15 THE CHAIRMAN: I am a little per-
16 plexed about this question of under keel clearance.
17 It is a fact that it is going to change from one ship
18 to another; one ship is going to need less under keel
19 clearance while the other is going to need more with
20 the same tonnage, and it is going to vary from one
21 speed to the other and depending on where it goes,
22 in which part of the River it is. Therefore there
23 should be a special clearance for each ship, for
24 each ship under various circumstances or various
25 speeds and various drafts.

26 MR. LANGLOIS: I would suggest,
27 My Lord, for this reason the brief refers to minimum
28 under keel clearance, and I think it would be easy
29 to establish a table giving such minimum clearances
30



1 for various sizes of ships and at different speeds.

2 THE CHAIRMAN: Because from the
3 information we have it strikes me that this is not
4 a problem because the under keel clearance is being
5 enforced in Montreal, and we have evidence that the
6 ships go to Sorel and Three Rivers and so on and
7 there is no accident, so therefore why all the fuss
8 about it.

9 THE WITNESS: My Lord, the other
10 day I was coming up river astern of a tanker, and
11 at Champlain curve the ship stopped just like that,
12 as if he put brakes on it. Completely. There was a
13 back-wash, and it touched bottom. I don't think it
14 is safe navigation. You come to meet another ship
15 and there would be a collision. Another tanker went
16 by about a week afterwards. His draft was 34'4",
17 and they were giving the river draft of 34'6". I
18 don't think it is safe. I think there is going to be
19 an awful collision one of these days. It might be a
20 boulder or something.

21 THE CHAIRMAN: Yes, but this has
22 been the practise and nobody paid any attention to
23 the under keel clearance when going in Montreal, and
24 only going out of Montreal Harbour, and there was
25 never any accident due to that.

26 THE WITNESS: But if Montreal --
27 if the Board of Trade sees the necessity for con-
28 trolling the draft for ships leaving Montreal I don't
29 see why the same precaution couldn't apply to Sorel
30



1 or Three Rivers.

2 THE CHAIRMAN: Maybe you are right,
3 but I am just giving the objection that there seems
4 to be to this.

5 MR. LANGLOIS: My Lord, on this
6 point, if I may be allowed to make a remark, of
7 course I would like to refer the Commission to the
8 case of the TIMNA. I think the file has been filed
9 as an exhibit before this Commission. I would like
10 to refer in particular to the testimony of the pilot.
11 I think it was Pilot Gariepy who took that ship from
12 Montreal to Three Rivers and even refused to bring
13 her alongside because she did not have at that time
14 enough under keel clearance. She was finally taken
15 by another pilot. Also, the evidence of Pilot
16 Arcand, who advised the master and the ship agent
17 before the ship left Sorel or Three Rivers, after
18 having taken her to Three Rivers, that ship was too
19 deeply laden.

20 THE CHAIRMAN: I recall that.

21 MR. LANGLOIS: Then the captain
22 refused. I am not too prone -- I am not interested
23 in trying to protect the interests of the shipowner
24 who is so careless as to be ready to send his ship
25 with too heavy a load in shallow waters, but this is
26 my duty this morning which I want to bring to your
27 attention; it does place that pilot in an awful
28 predicament.

29 THE CHAIRMAN: Yes, of course it
30



1 is his duty to see to the safety of the ship, but
2 he has to warn the captain about that, and he would
3 like to be helped by some kind of regulation.

4 MR. LANGLOIS: Yes, because, and
5 I come to this, My Lord, the pilot is alone on that
6 ship. He will have nobody to support him in most
7 cases, and the captain will have just to say "No, he
8 didn't warn me." and the pilot is due to take the rap.

9 We had another case like that.
10 It was the case, My Lord, of the WARRIOR. I don't
11 think that file has been filed before the Commission.
12 That ship was going up to Chicoutimi, and she grounded
13 in the narrow channel, the dredged channel between
14 St. Fulgence and Chicoutimi, and the pilot claimed
15 at the enquiry that he had warned the master to wait
16 for the flood before proceeding to Chicoutimi, but
17 before the captain could be heard to verify that, he
18 died suddenly and the pilot was then in an awful
19 predicament. He couldn't establish --

20 THE CHAIRMAN: Well, the testimony
21 of one witness is enough.

22 MR. LANGLOIS: But, there was no-
23 body else.

24 MR. JACQUES: I can see my learned
25 friend's problem but I can think of several suggestions
26 rather than limiting the under keel clearance as an
27 answer to that problem as far as the pilot is concerned.

28 MR. LANGLOIS: We had another case,
29 My Lord, where not the pilot involved but I think it
30



1 was the local pilots' committee who advised a certain
2 company against sending a certain ship to Chicoutimi
3 on account of her size, and the matter was even taken
4 up with Ottawa, but this action was of no avail.

5 My learned friend says he has
6 some other ways to suggest. I would like to have his
7 suggestions because so far nobody has been able to
8 come along with the right answers. There is also
9 besides that a question of safety for the ships.

10 THE CHAIRMAN: Yes.

11 MR. LANGLOIS: And safety also to
12 the installations, the harbour installations and to
13 the channel, which is a very important trade route.
14 For example, the St. Lawrence.

15 THE CHAIRMAN: In Saint John, New
16 Brunswick they have the same problem. They have
17 tried to find a solution with regard to lighter ships
18 without much success.

19 Q Now, coming back to your evidence,
20 Captain Hamelin, would you have anything to add to
21 what you have said so far in this connection?

22 A Well, no, but as far as deep
23 draft ships are concerned, you meet another ship, a
24 fast ship, a passenger ship, and my goodness, it
25 nearly pulls you out of the channel because there is
26 no more water left underneath you. You go sideways.

27 I think for safety purposes 2-
28 foot clearance is not too much for a river like
29 Montreal to Quebec. Longer. Larger. Steering is
30



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1 very bad. It affects the steering very, very badly.
2 If the ship is loaded too deep we have difficulty
3 keeping her in the channel.
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1 THE CHAIRMAN: Of course, when
2 you are meeting other ships the water is going down?

3 THE WITNESS: Yes.

4 THE CHAIRMAN: On account of the
5 suction?

6 THE WITNESS: Yes.

7 MR. LANGLOIS: That is all, thank
8 you.

9 THE CHAIRMAN: Have you any
10 questions, Mr. Brisset?

11 MR. BRISSET: No questions.

12 MR. JACQUES: No questions.

13 THE CHAIRMAN: I think we will
14 take our break now. You are going into a new subject.

15 ---RECESS
16

17 MR. LANGLOIS: My next witness
18 will be Captain Cobham.

19 ---
20

21 CAPTAIN R.V. COBHAM, recalled

22
23 DIRECT EXAMINATION BY MR. LANGLOIS:

24 Q Will you state your address and
25 occupation, Captain Cobham?

26 A Saint John, New Brunswick, pilot.

27 Q Since you have appeared as a
28 witness before this Commission before, I think I will
29 dispense with your qualifications, but would you state
30



1 what are your functions in the Canadian Merchant
2 Service Guild?

3 A I am chairman of the National
4 Pilots' Committee and Vice-chairman of the Eastern
5 Branch of the Canadian Merchant Service Guild.

6 Q Would you now refer, Captain
7 Cobham, to page 5, paragraph 13, of the brief of the
8 Guild, where it is stated that "...the contents of
9 this brief were fully discussed and agreed at two
10 meetings, one at Saint John on September 6, 7, 8 and
11 9, 1964, and in Montreal on September 10, 1964.

12 Is it a fact that the contents of
13 the brief were agreed by all who attended these
14 meetings?

15 A That is correct.

16 Q Would you please briefly tell the
17 commission who attended these meetings?

18 MR. LANGLOIS: I think, My Lord,
19 I could dispense with the one at Saint John, since
20 the report of the proceedings has been filed and
21 this information is contained therein.

22 THE CHAIRMAN: Yes.

23 MR. LANGLOIS: Q But, in
24 Montreal will you tell us who attended the meeting?

25 A In Montreal there were delegates
26 from each district from Vancouver to St. John's,
27 Newfoundland.

28 Q Do you remember who were there --
29 the names of the representatives?
30



1 A Yes; Captain McKay represented the
2 West Coast. And there was a chap there -- I forget
3 his name...

4 Q For the West Coast you had Captain
5 McKay as the representative?

6 A That chap -- his name is Andre
7 Peurusse, pilot; Captain Orance Hamelin; Captain
8 Jean Marchand; Captain Dussault; Captain Collins from
9 Newfoundland; Captain Himmelman from Halifax; Captain
10 H. Arcand; Captain Wilson from Sydney; Captain Denis
11 Fournier of Quebec.

12 Q And what about the District of
13 Saint John, New Brunswick?

14 A I represent Saint John with F. A.
15 Quinn; and the Secretary, Mr. Barry.

16 Q Do you mean to say in Paragraph 13
17 that the contents of this brief were made the subject
18 of resolutions adopted at these meetings?

19 A Yes, that is correct.

20 Q After the resolutions were adopted
21 at these two meetings was a draft of the brief sub-
22 mitted to all districts?

23 A A rough draft was submitted, My
24 Lord, to all districts for their confirmation.

25 Q For the confirmation as to their
26 approval of the draft?

27 A That is right.

28 Q So, you are saying then that the
29 contents of the brief are representing the views of
30



1 all the pilotage districts and the members of the
2 corporations -- pilotage corporations -- members of
3 the Guild present?

4 A Yes.

5 Q Now, Captain Cobham, I come back
6 to the charter entitled "Under-keel Clearance". You
7 have heard the evidence given on the subject by
8 Captain Hamelin. Would you care to add to what he
9 has said on the subject this morning?

10 A Yes; I firmly agree with Captain
11 Hamelin.

12 I know in our district we filed a
13 plan of soundings taken by the Public Works Department
14 last March; the date I do not know, but it was in
15 the month of March; and I have another here which I
16 wish to file of August of this year; and in the space
17 of five months our channel has filled in one area
18 two feet.

19 MR. LANGLOIS: My Lord, this is
20 a sounding plan made by the Department of Public Works
21 of Canada, Saint John, New Brunswick, for Courtenay
22 Bay, for dredging, and it is dated Saint John, New
23 Brunswick, August 10, 1964.

24 THE CHAIRMAN: And it is going to
25 be attached to the previous one that was filed.

26 MR. LANGLOIS: Would you care to
27 have a look at it, My Lord?

28 THE CHAIRMAN: Yes.
29
30



1 ---Attached to EXHIBIT NO. 1154: Sounding Plan,
2 prepared by Department
3 of Public Works, Saint
4 John, New Brunswick,
for Coutenay Bay, dated
August 10, 1964.

5 Q Would you state, Captain Cobham,
6 in what respect this plan differs from the one filed
7 previously?

8 A The difference is that it is ap-
9 proximately two feet shorter than the previous plan
10 which was issued in March.

11 Q Before the plan was made, or the
12 soundings taken in connection with the sounding plan,
13 could you notice any difference in the depth of water
14 in the entrance to Coutenay Bay dock facilities?

15 A Well, we had asked for an echo-
16 sounding for the pilot boat so that we could keep a
17 check on the soundings, but one was on a tape -- a
18 tape recording -- and it was absolutely useless.

19 I took a ship called the PETROSEA
20 into Coutenay Bay prior to receiving these latest
21 soundings. It was on a 22-foot tide, and the ship
22 had a draft of 35 feet 4 inches, and according to our
23 previous soundings I had 16 feet 5 inches above datum,
24 at low water in the channel -- from 16 feet 5 inches
25 at datum; and plus 22 would give me 38 feet 5 inches.
26 I went in with the ship, and it was tip-top high
27 water, and the ship was drawing 35 feet 4 inches and
28 I estimated that I had 38 1/2 feet. Well, after look-
29 ing at the soundings here you see that I may have had
30



1 a foot under going in there, and with a 45,000 ton
2 oil boat.

3 Q What do you experience when you
4 are in charge of a ship and she is being navigated in
5 shallow water such as the entrance to Courtenay Bay?
6 What is the reaction of the ship under such
7 circumstances?

8 A Well, they refuse practically to
9 steer at slow speed on a neap tide. The ship refuses
10 to steer. It is "full" back to "slow" and back to
11 "full" all the time; and as you are coming in to
12 Courtenay Bay you have a dead end, and you have to
13 have considerable way on. I would say we were fortu-
14 nate, and that is all.

15 Q Do you notice any changes in the
16 trim of the ship?

17 A No; as a rule they load the ship
18 even keel.

19 Q I mean when you are called upon
20 to navigate a ship at high enough speed in shallow
21 water? Do you notice ...

22 A Yes, they settle -- they squat.

23 Q It settles by the...?

24 A By the stern.

25 Q Have you ever noticed any ship
26 settling by the bow?

27 A No.

28 Q Have you also ever noticed that
29 the manoeuvrability of your ship was affected by the
30



1 rolling of a beamy ship in shallow water?

2 A Yes; we had to be very careful go-
3 ing into Courtenay Bay because with some ships a heel
4 of approximately 1 degree increases their draft about
5 1 foot.

6 THE CHAIRMAN: We had evidence
7 about that on one occasion in Courtenay Bay when a
8 pilot said that his ship had an angle like that.

9 MR. LANGLOIS: Q And you refer to
10 a ship of what beam?

11 A 100 feet, approximately, or better.

12 THE CHAIRMAN: We had also there
13 the ground swell.

14 THE WITNESS: Yes.

15 MR. LANGLOIS: Q May I, then,
16 take it from your remarks that the content of this
17 paragraph entitled "Under-Keel Clearance" also applies
18 to the port of Saint John, New Brunswick?

19 A Yes, quite.

20 Q In your capacity, or in the exercise
21 of your function, as chairman of the National Pilots'
22 Committee have you received similar representations
23 or observations from other districts, from pilots of
24 other districts?

25 A Yes; they have discussed it with
26 me.

27 Q In the light of these observations
28 would you be prepared to say that the content of this
29 chart apply, generally speaking, to all districts?
30



1 A Yes, that is correct.

2 THE CHAIRMAN: Well, taking as an
3 example the case of Saint John, you could see what it
4 would mean if we make too hard a ruling to take care
5 of all the situations, because the situation there
6 would change from one day to another. You have a
7 calm summer day and there is no swell and the current
8 exhaust from the Harbour is very light. In a case
9 like that the pilot would bring in a ship with less
10 under-keel clearance; but, when you have a ground
11 swell and it is near the freshet, or things like
12 that, then, of course they need more under-keel
13 clearance.

14 So, if you establish a rule to
15 take care of all these circumstances you are going to
16 cut down the capacity of ships for the whole year,
17 unnecessarily.

18 I think there should be maybe a
19 recommended rule, or a recommended standard, but with
20 some leaway left to the pilot to judge; otherwise,
21 you are going to limit it unnecessarily. The pilots
22 could be able to judge whether it was all right, and
23 if they said at times, "Well, we are not going to
24 bring the ship in in this state of the tide.", you are
25 going to be obliged to lighten the ship; and at Saint
26 John they do that control themselves. Maybe there
27 could be some kind of yardstick to help them, but I
28 don't think it should be too rigid a rule.

29 MR. LANGLOIS: Q You agree with that,
30



1 Captain Cobham?

2 A Yes, My Lord.

3 MR. LANGLOIS: Mr. Jacques, do you have
4 any cross-examination in connection with this chart?

5
6 EXAMINATION BY MR. JACQUES:

7 Q Would you look at Paragraph 13 of
8 the brief, Captain Cobham?

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1 Q I have read the report of the
2 18th Annual Convention and in this report instruct-
3 ions were given to the solicitor for the Guild to
4 prepare a brief along the lines suggested in that
5 18th report?

6 A Yes.

7 Q Then, the brief in draft form was
8 to be submitted to each district for final approval
9 prior to filing; was that done?

10 A That is correct.

11 Q It was done?

12 A Yes.

13 Q I note in Paragraph 13 you state
14 that the National Pilots' Committee carefully re-
15 viewed and considered the contents of the briefs sub-
16 mitted to the Royal Commission on Pilotage by the
17 various pilotage districts and corporations across
18 Canada. Do you know whether all the briefs submitted
19 by the districts were studied by the Guild?

20 A Well, the representatives of all
21 districts attended this meeting.

22 Q Which one?

23 MR. LANGLOIS: The two of them.

24 THE WITNESS: In fact, both, the
25 9th of February and the 10th of September.

26 MR. JACQUES: The dates do not
27 agree at all. I have February 17th to the 20th.

28 THE CHAIRMAN: Yes, Mr. Langlois?

29 MR. LANGLOIS: I think, My Lord,
30



1 that with the exception of Captain Sorenson, who due
2 to his death was the only representative of the
3 Guild, of the district, who was not present at either
4 the Saint John or Montreal District, all those who
5 were there were witnesses when the briefs were
6 presented across Canada. Captain Sorenson was about
7 the only one who was not there.

8 MR. JACQUES: Q At any rate,
9 from the list of members present I notice I can re-
10 cognize several names of pilots who have been witnesses
11 or who have followed the Commission. But the matters
12 discussed in this 18th Annual Convention as reported
13 in this document do not cover the whole extent of all
14 the briefs which have been submitted. I note that
15 compulsory pilotage and detention have been studied
16 at this meeting. I wonder when the other suggestions
17 or recommendations were studied?

18 A They were studied on the 10th of
19 September.

20 Q You have not got minutes of that
21 meeting, have you?

22 A Maybe the Secretary has; I do not
23 keep minutes.

24 Q Perhaps we could be supplied with
25 a copy of these minutes?

26 MR. LANGLOIS: My Lord, I do not
27 think they have been transcribed. They were tape-
28 recorded. All the proceedings were tape-recorded
29 and I used them myself to prepare the draft of the
30



1 brief. I do not think my secretary has had time to
2 transcribe them. It was quite a long one.

3 MR. JACQUES: When they are trans-
4 cribed perhaps we could annex them to Exhibit 1385
5 in order to complete the minutes of all the hearings
6 with respect to briefs?

7 MR. LANGLOIS: I think there were
8 three tapes, My Lord.

9 THE CHAIRMAN: I am wondering
10 whether it is warranted. I would suggest that our
11 counsel will look them up and refer to them before
12 putting all of them in the records.

13 MR. JACQUES: Yes, sir. I think
14 it is warranted. I have read this report and it is
15 very, very interesting.

16 THE CHAIRMAN: That is all right.
17 You will check them first?

18 MR. JACQUES: Very well.

19 Q The approval which has been given
20 by the Guild to the recommendations contained in
21 these individual submissions, I take it, is a recom-
22 mendation as applicable only to that particular
23 district and that the over-all Canada-wide recom-
24 mendations are contained in your own brief Exhibit
25 1382?

26 A That is right.

27 MR. JACQUES: Thank you.

28 THE CHAIRMAN: No questions, Mr.
29 Brisset?
30



1 MR. BRISSET: No questions, My
2 Lord.

3
4 BY MR. LANGLOIS:

5 Q Now, Captain Cobham, would you
6 take the brief and refer to the chapter on pilotage
7 and the Pilotage Act on pages 7 and 8 of the brief
8 paragraphs 15 to 18 inclusive? Would you, Captain,
9 have anything to add to what is said in this chapter?

10 A No. The Canada Shipping Act is
11 definitely obsolete and archaic and should be
12 definitely revised.

13 THE CHAIRMAN: Are you going to
14 have this amplified a bit better -- to have this
15 statement amplified?

16 MR. LANGLOIS: Q Would you care
17 to give some examples of what you have in mind?

18 A Well, they are further in our
19 brief there, Mr. Langlois.

20 THE CHAIRMAN: About Inquiries?

21 MR. JACQUES: About what?

22 THE CHAIRMAN: Inquiries.

23 MR. JACQUES: You say the law is
24 obsolete. I will not use the tactic of Mr. Lalonde
25 in his absence. I have not got a dictionary with me
26 to look up the meaning of every one of these words;
27 but you say it is obsolete. Would you tell us in
28 what respect you consider the law or by-law as
29 obsolete?
30



1 THE WITNESS: Well, not too long
2 ago a German shipmaster was reading our Canada
3 Shipping Act and he decided it should be revised.
4 There were plenty of articles in there... For in-
5 stance, the crew of the SEEKONK; the ship blew up in
6 Charlottetown and they were not compensated for their
7 clothes.

8 MR. JACQUES: I am sorry?

9 THE WITNESS: No compensation for
10 their clothes.

11 MR. JACQUES: For their clothes?

12 THE WITNESS: That is right.
13 They lost all their clothes.

14 MR. JACQUES: What has it to do
15 with pilotage?

16 THE WITNESS: That is in the
17 Canada Shipping Act.

18 MR. JACQUES: Yes, but with
19 pilotage?

20 THE WITNESS: Yes. It is further
21 over in this brief here. That comes in another
22 section.

23 THE CHAIRMAN: That is all right.
24 I have one question about that. The Canada Shipping
25 Act regarding pilotage does not contemplate any com-
26 pulsory pilotage.

27 THE WITNESS: That is right.

28 THE CHAIRMAN: Do you think it
29 should?
30



1 THE WITNESS: Yes, sir.

2 THE CHAIRMAN: Why?

3 THE WITNESS: The pilotage to my
4 mind, sir, should be a separate act within the Canada
5 Shipping Act more so than what it is today.

6 THE CHAIRMAN: Yes, but why? You
7 do not think the system that is provided in the
8 Canada Shipping Act that pilots should not be im-
9 posed on the Master; he should not be obliged to take
10 a pilot --

11 MR. LANGLOIS: My Lord, I draw
12 Your Lordship's attention to the fact that there is
13 a chapter on that, Compulsory Pilotage, which comes
14 later.

15 THE CHAIRMAN: I see; I am sorry.
16 This is going to come later -- that is all right. I
17 am just trying to find out in what respects we are
18 going to develop later on all those aspects of the
19 Canada Shipping Act, or the pilotage part, which are
20 not up to the present situation, because we are very
21 much interested in that. That is why we are called
22 as a Commission.

23 MR. JACQUES: Let us take the
24 brief at paragraph 16, page 7. First you state --
25 mind you, I am not trying to trick you; I am not
26 trying to elicit legal opinions from you, but I just
27 want the attitude of pilots with respect to these
28 items -- you say that it is imperative to have a
29 separate pilotage act. I wonder if you could elaborate
30



1 on that? Why separate? Is there any strong object-
2 ion to having it as a chapter in the Canada Shipping
3 Act, apart from legal niceties or legal interpretation?

4 MR. LANGLOIS: My Lord, in this
5 respect I think, if I may --

6 THE CHAIRMAN: Yes, you may speak
7 on that.

8 MR. LANGLOIS: After all, the
9 witness is not a lawyer. If my learned friend wants
10 to have some examples of what is meant when it is
11 said that the Canada Shipping Act is archaic, I would
12 refer him to Paragraph 17 where the example is given
13 that there is not even the right of appeal except in
14 some cases -- and I am dealing with another paragraph.
15 It is not provided and if this is not archaic I do
16 not know what is.

17 THE CHAIRMAN: Section 329 gives
18 authority to the Pilotage Authority to make regu-
19 lations to make Inquiries. They have not done so.
20 It is not the law; it is the regulations that are not
21 up to date. But they could do it with the present
22 law.

23 MR. LANGLOIS: But could they,
24 My Lord, provide a right of appeal in these regu-
25 lations to a higher tribunal?

26 THE CHAIRMAN: Well, it all
27 depends what kind of tribunal. But I am pretty sure
28 they could organise something like that if they wished.
29 Of course, bearing in mind that the law provides for
30



1 a local authority and not a super authority -- a
2 local authority in the law -- nothing is supposed to
3 be centralized in that, in pilotage.

4 MR. JACQUES: There is no appeal

5 --

6 THE CHAIRMAN: But they could
7 organise at the local level; they could organise an
8 appeal.

9 MR. JACQUES: But, this is not a
10 symptom of obsolescence of the law because we have
11 several jurisdictions in Canada where there is no
12 appeal, jurisdictions where they deal with very im-
13 portant matters such as the Magistrate's Court in
14 Quebec dealing with municipal and school matters
15 a quasi-evaluation role and there is no ap-
16 peal except by way of Writs of prohibition or
17 certiorari.

18 THE CHAIRMAN: I think we are
19 getting too far out of the case if we start dis-
20 cussing that. It is going to come at the time of
21 pleadings. But if you have examples while going on
22 you could give them to us, because we would like to
23 see that.

24 MR. LANGLOIS: Another example,
25 without going into too many details, is the question
26 of the formation of the pilotage districts of Quebec
27 and Montreal for example that are provided by
28 statute and when it comes to this question of com-
29 pulsory payment of pilotage apparently there is an
30



1 omission in the Act which is quite evident and could
2 lead to lengthy litigation. We have an awkward legal
3 position, as Your Lordship knows.

4 THE CHAIRMAN: Yes, things like
5 that. For a while I think in Canada here there was
6 a separate pilotage act and then it was embodied in
7 the Canada Shipping Act. I do not know why this move
8 was made.

9 MR. LANGLOIS: Yes. This was not
10 done in England, as Your Lordship knows. They have
11 kept it a separate act and as is stated in the brief
12 I think that makes the pilotage law more accessible
13 and more easy to amend. If you have to re-open the
14 Canada Shipping Act every time you want to make a
15 slight amendment to the Pilotage law you are running
16 into quite something. And I can speak with experience
17 ^{been} there because having/parliamentary assistant to the
18 Minister of Transport for a number of years I knew
19 then that the legislation Committee of the Cabinet
20 was always reluctant to open an act of the scope of
21 the Canada Shipping Act and important amendments
22 were delayed for numbers of years on account of that,
23 because it would open quite a debate and there was
24 such a thing as consideration being given to other
25 important legislation and the House of Commons being
26 pressed for time could not afford to open an act of
27 the scope of the Canada Shipping Act. Any amendment
28 there because of the inter-relation between articles
29 and sections is very difficult to appraise, to see
30



1 exactly what it means.

2 Well, we won't get into anything
3 further on that.

4 MR. JACQUES: I am happy with the
5 speech just made by my learned friend. It points out
6 at least one valid reason why it should be taken out
7 of the Act.

8 THE CHAIRMAN: That is all right.
9 We will come to that at the time for pleadings, un-
10 less you have to bring facts.

11 MR. LANGLOIS: Are there any
12 further questions on this chapter?

13 THE CHAIRMAN: Excuse me, while
14 we are on this subject, the system in the Canada
15 Shipping Act is that the local authority -- the
16 Minister as the authority is the exception. As we
17 see it now the exception has become the rule.
18 Secondly, the principle, the rule, is that the districts
19 should be self-supporting and there should be no com-
20 pulsory system whatsoever. The exception is that
21 when there is not enough money to be self-supporting
22 then a compulsory system of payment is implemented
23 in order just to levy a tax, in order to maintain
24 the service.

25 I think those are two great
26 principles of law the way it takes us now.

27 MR. LANGLOIS: Q We now come,
28 Mr. Cobham, if you have a copy of your brief there,
29 to the chapter entitled "Compulsory Pilotage at
30



1 pages 9, 10 and 11, Paragraphs 19 to 25 inclusive.

2 Before I deal with the contents of these paragraphs I
3 would like to ask you a question, Captain Cobham, in
4 regard to the recruiting of your pilots in the Saint
5 John District. How is this recruiting done?

6 A Well, there is more or less a
7 serious predicament in Saint John. We have one chap,
8 Bouthiller, who passed for his pilot's licence it is
9 either two or three years next month. The pilots had
10 been endeavouring to get him on as a probationary
11 pilot to gather experience and it is only a week ago
12 that we had a letter that was sent to Mr. Baldwin
13 from the Secretary of the Guild with a request that
14 this chap be placed on our roster but to no avail.

15 It is going to mean less money if
16 the pilots in the Port of Saint John will have to pay
17 his take-home pay, but where Miller is about ready to
18 retire, we requested that this man be taken on so he
19 will have an opportunity to gain experience before he
20 goes on board the ships.

21 -

22 -



1 It is not right to take a man on
2 with only seven or eight full licenced pilots. The
3 port should have ten at all times. We don't work on
4 a tour de role, My Lord.

5 MR. LANGLOIS: I think there was
6 some evidence in this respect at the Saint John
7 hearings.

8 THE CHAIRMAN: Yes.

9 THE WITNESS: Further to that --

10 MR. LANGLOIS: It is not what I
11 had in mind.

12 THE WITNESS: No, I am coming to
13 that. Recruiting pilots. We take our pilots from
14 the coastal vessels. We have no coastal ships op-
15 erating out of Saint John now that apparently our lads
16 can get on as an A.B., ordinary seaman or whatever it
17 may be. A ship not too long ago built in our port,
18 paid for by public funds, the taxpayers of this
19 country, and when she was ready to go to sea -- she
20 was registered in Saint John -- with a foreign crew
21 aboard, not a Canadian aboard that ship. She is a
22 foreign-going, but we have one, two -- two others in
23 the inner coastal trade between Saint John and the
24 St. Lawrence, Newfoundland, etcetera. They also have
25 foreign crews. We have no Canadians on them.

26 THE CHAIRMAN: What about the
27 officers?

28 THE WITNESS: Foreign officers,
29 sir.
30



1 MR. LANGLOIS: Do you envisage any
2 difficulties in the recruiting?

3 THE WITNESS: We have no ships in
4 our area to have lads to be taken aboard as ordinary
5 seamen or whatever it is.

6 THE CHAIRMAN: Except your PRINCESS
7 OF ACADIA.

8 THE WITNESS: But they are all too
9 old.

10 MR. LANGLOIS: I come back to this
11 chapter on compulsory pilotage.

12 THE WITNESS: Mr. Langlois, there
13 is an article there on the Australian Government that
14 I would like to have filed in regard to the crews
15 aboard ship.

16 MR. LANGLOIS: My Lord, the witness
17 refers to a newspaper article he wished to file.
18 This article had to do with the policy of the
19 Australian Government in connection with the ship con-
20 struction subsidy. The ship to which the witness
21 referred was a ship built under the Canadian Ship
22 Construction subsidy, and the article in question
23 dealt with a similar case in Australia where the
24 Australian crews and officers are protected because
25 under the Ship Construction Subsidy Act -- I think
26 they call it the Board of Shipping in Australia --
27 has another condition here; a Canadian shipowner must
28 undertake to keep a ship under Canadian registry for
29 at least five years and undertake also not to dispose
30



1 of that ship without written consent of the Maritime
2 Commission. But these are the only two conditions.

3 In Australia they have a third
4 condition, that the ship should be manned by
5 Australian crews. Such a condition does not exist in
6 legislation -- it is not even legislation in Canada.
7 It is done through a mere vote in the estimates of the
8 Department of Transport.

9 THE CHAIRMAN: I think the
10 Department is aware of the situation because I recall
11 last year there was an announcement to the effect they
12 would have a system for training old crew people.
13 They are lacking the pool where to draw from.

14 MR. LANGLOIS: If the Commission
15 is interested in this newspaper clipping, it is from
16 the Lloyds List of Shipping Gazette, 1964.

17 THE CHAIRMAN: Thank you.

18 BY MR. LANGLOIS: Q Now, coming back, Captain
19 Cobham, to compulsory pilotage in the paragraphs 19
20 and 20 of this chapter of your brief you gave us
21 reasons for the recommendation that the pilotage be
22 made compulsory. This is a matter of safety. Would
23 you care to elaborate on this, please?

24 A Well, it is definitely a matter
25 of safety. Take our own district, for instance.
26 They are tankers coming out. Small tankers coming
27 out on low water, Courtenay Basin, coming inbound
28 with a ship bound north, blinding lights -- you never
29 know, bound in, bound out, half the time you can't see
30



1 the lights. We are very fortunate in that area there
2 has not been a collision. If we had compulsory pilot-
3 age there it would be for the safety of the port.

4 Q You mean by this that if -- we
5 heard about this, My Lord, yesterday -- if a law or
6 regulation is made calling for compulsory payment of
7 pilotage dues, that this should be done for safety
8 reasons?

9 A That is right.

10 Q Do you mean also that if it is
11 done for safety reasons that immediately the mere
12 payment of a fine or of pilotage dues should cover
13 the situation? That is what you have in mind?

14 A That is right.

15 THE CHAIRMAN: That will mean that
16 there would be only licensed pilots where safety calls
17 for pilots.

18 MR. LANGLOIS: Yes.

19 THE CHAIRMAN: And the pilot should
20 not be licensed, in other words when there is no safety
21 question entering it?

22 MR. LANGLOIS: I think myself an
23 example is always bad. An example of this would be
24 here in the City of Ottawa we have certain streets
25 with traffic lights. If when I approach a traffic
26 light and it is red, if I could go through the red
27 light by paying 25 cents, I don't think I would be
28 contributing to the safety of traffic in this City of
29 Ottawa.
30



1 THE CHAIRMAN: That would mean
2 there is no point of safety from what we have under-
3 stood, so it is for the convenience of ships. All we
4 have seen over there is that they need somebody to
5 help them just to show where the channel is, and it is
6 quite easy; that a master could take a little more
7 time, but really there is no need for the pilots there
8 except for the convenience of the ships. The same
9 thing at Seven Islands. Of course they are not
10 licenced there.

11 MR. LANGLOIS: We are dealing with
12 private ports.

13 THE CHAIRMAN: But not in Prince
14 Edward Island. Saint John, New Brunswick is at one
15 end of the spectrum and Prince Edward Island is at
16 the other end and we have all kinds of ports in
17 between.

18 MR. LANGLOIS: My Lord, even in
19 Charlottetown that could be also a question of
20 safety. I don't know if you read in the newspaper
21 that the BRITANNIA nearly lost her gangway the other
22 day with Her Majesty. Probably if there had been a
23 pilot on board knowing the local conditions, the ship
24 wouldn't have been swinging out, but the weather pre-
25 vailing at that time --

26 THE CHAIRMAN: There is no river
27 current.

28 MR. LANGLOIS: There was the wind.

29 THE CHAIRMAN: This is a common
30



1 thing that happens in every port.

2 MR. LANGLOIS: But, My Lord, it
3 all depends. Sometimes you have wind gusting more in
4 some parts of the port than in others, and a man, a
5 stranger coming there for the first time doesn't know
6 about the condition.

7 THE CHAIRMAN: We have been told
8 that the deep sea masters have the highest certificates,
9 and therefore they should know these things.

10 MR. LANGLOIS: Not local conditions,
11 My Lord. I respectfully disagree. It is an old say-
12 ing, My Lord, and I have said it previously: the deep
13 sea man is lost when he sees land, and the coastal
14 man is lost when he loses the land. I think it applies
15 to both of them.

16 THE CHAIRMAN: I see an objection
17 in the audience.

18 MR. JACQUES: He said that be-
19 cause he has a coastal ticket.

20 MR. LANGLOIS: Now, Captain Cobham,
21 in Paragraph 21 --

22 THE CHAIRMAN: Excuse me. While
23 we are still on this subject, there is a conception
24 where everybody who wants to have the title of pilot
25 should be certified as such even if it is for the
26 mere convenience of shipping like Seven Islands, for
27 instance, or like Gaspé. In Gaspé, as you recall,
28 any man there calls himself a pilot, and there is
29 also the trend of the deep sea men for whatever
30



1 reason I don't know, but in any event that is the
2 practise when they are near the land if they could
3 have they ask the help of the local man, and then
4 those men come along, and this is for safety that
5 they be allowed to pilot.

6 There was a suggestion that every-
7 body who could, in order that he be called a pilot,
8 should be certified as such as electricians are and
9 the boiler makers are and so on. Why not for
10 pilots? It would be only a question of safety, and
11 then compulsory pilotage -- if a man would like to
12 be a pilot, so there is some kind of conflict there,
13 don't you think?

14 MR. LANGLOIS: Yes, probably, but
15 there have been also conflicts -- My Lord, I wish to
16 draw your attention to testimony given in Montreal.
17 If my memory serves me I think it was by Mr. Colley
18 and Mr. Parsons to the effect that they considered
19 pilotage mostly as a matter of convenience and ef-
20 ficiency and expediency, but on the other hand when
21 they called on Captain Reese-Potter, he said it was
22 primarily a matter of safety.

23 You see, even among shipping
24 people there is some divergency of views there, but
25 I am inclined myself to believe, My Lord, that if
26 should
27 pilotage is established it / first be established on
28 the basis of safety and safety primarily.

29 THE CHAIRMAN: Yes, primarily,
30 but there could be places where safety is less a



1 requirement than in some other places. Like St. John's,
2 Newfoundland. In New Brunswick I think it is a
3 question of safety there, and almost anywhere in
4 Canada where the conditions are worse. Maybe in
5 British Columbia, but very seldom you find such dire
6 conditions that they have in Saint John. As I said,
7 we have Prince Edward Island; it is the other way
8 around.

9
10 MR. LANGLOIS: Might I add, My Lord,
11 with your kind permission, safety is also relative to
12 the circumstances in which the ship is being navigated.
13 I think we have heard before this Commission witnesses
14 stating that in cases of foul weather they would
15 rather have a pilot on board their ship, but that is
16 primarily a question of safety, while the same situ-
17 ation might not obtain under fine weather conditions.
18 It is relative. But, I think pilotage should envisage
19 all these situations if we really care for our safety.

20 THE CHAIRMAN: It would call for a
21 full re-vamping of the law because it is not made for
22 safety. The exemptions, for instance, are not safety-
23 wise at all. Oh, that is Canadian. Oh, that is
24 British, without even knowing whether they are qualified
25 or not.

26 Q In paragraph 21, Captain Cobham,
27 pages 9 and 10, it is stated that if compulsory pilot-
28 age is established there should be a similar exemption
29 to that existing in the Pilotage Act of the United
30 Kingdom. Is that also an expression of the views of



1 the National Pilots' Committee that such an exemption
2 should be incorporated into our Canadian law in
3 pilotage?

4 A I am not a lawyer, Mr. Langlois.

5 Q But, this was discussed?

6 A Oh, yes.

7 Q And I do not want you to explain
8 it. I know it is a legal question. Does the same
9 remark also apply to paragraph 22 in connection with
10 the exemption from liability in damages in favour of
11 pilots for any damages exceeding \$300 under section
12 362 of the Canada Shipping Act? Was that the view
13 expressed by the National Pilots' Committee?

14 A Yes.

15 Q Is it also in paragraph 23 the
16 views of the National Pilots' Committee that there
17 be no change in the present exemptions except in
18 cases where it was otherwise recommended in individual
19 submissions by the districts?

20 A That is correct.

21 THE CHAIRMAN: Don't you think
22 there is a conflict there? Section 24 and Section 19.
23 I think the exemptions now are just for tax purposes.
24 There is no question of safety at all. A Canadian
25 ship making its first trip -- a coastal ship I mean
26 -- can make it now, and I am pretty sure this ship,
27 if it is a new crew there is no question of safety
28 at all because they are green in that sector, and
29 they are very liable to cause accidents.
30



1 MR. LANGLOIS: It is exactly for
2 this reason the reservation was made at the end.

3 THE CHAIRMAN: All right. Carry on.

4 MR. LANGLOIS: It was otherwise
5 recommended in the brief of the Federation, for
6 example. The other two paragraphs deal with the sup-
7 port given to the Sydney pilots.

8 COMMISSIONER SMITH: Excuse me,
9 before you pass on to paragraph 24, in connection
10 with compulsory pilotage, Captain, I do not expect
11 you to deal with legal niceties or legal entanglements
12 or legal interpretations, but I think it might be
13 helpful to get a layman's slant on some other aspects
14 of the law dealing more with facts of the law rather
15 than the law itself.

16 In that connection, I have here
17 a quote read into the transcript by commission counsel
18 of a letter from the St. Lawrence Seaway Authority,
19 and this is what it stated:

20 "In the field of the owner's
21 responsibility for damages caused by the
22 negligence of pilots, Courts in England
23 have said that pilots voluntarily employed
24 by the owner or master are agents for whose
25 direction the owner is responsible, but
26 that compulsory pilots are not agents so
27 that the agent is not responsible for their
28 negligence in the direction of a vessel."

29 It goes on to say until 1960 the
30



1 Canada Shipping Act provided in effect that owners
2 would be responsible in the case of Canadian pilots,
3 and then the amendment followed just before districts
4 2 and 3 were brought in under the compulsory regu-
5 lations.

6 Now, having those things in mind,
7 have you anything to say or to offer or to suggest
8 flowing from those legal questions?
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1 THE WITNESS: No, I don't think I
2 would; I have no suggestions to make.

3 COMMISSIONER SMITH: My Lord, I
4 have another thing in my mind. I realize that the
5 question I have asked the witness is a very technical
6 one, but I thought it might be handy for the record
7 to have all these various legal expressions in one
8 place in the transcript for further reference.

9 THE CHAIRMAN: We have in our
10 office now a review of all the jurisprudence, judgments
11 that were rendered and also the exemptions of the
12 Canada Shipping Act and the law. We have a review
13 of those matters now, so this is going to help that.

14 Coming back to the question of
15 exemptions, I think there is still a conflict in the
16 statement about the recommendations. I think if we
17 are talking safety-wise these should not be based on
18 nationality but on competency and the qualification
19 of officers of the ship; so therefore there shouldn't
20 be any discrimination, if it is to be the safety
21 angle that is going to decide whether there should be
22 pilotage or not; and, therefore, foreign masters
23 qualified for this search of what should receive
24 exemption and not just those who have a Canadian ship.

25 If we consider this angle of
26 safety, which is not true now, because it is a
27 question of tax and we say, by the law, that foreigners
28 are going to pay the tax and we are not -- this is
29 what the law says now.
30



1 MR. LANGLOIS: If I may be allowed to
2 comment on that, My Lord...

3 THE CHAIRMAN: Yes.

4 MR. LANGLOIS: ...this is true if we
5 consider only the capacity of any master or officer
6 to navigate a ship in certain waters on the basis
7 of the certificate that he holds; but it is not our
8 contention. Our contention is that it is more than
9 a matter of the degree of the certificate you hold,
10 but there is also a very large degree of local
11 knowledge.

12 THE CHAIRMAN: Yes; that is what I
13 mean; that is, provided that the same principles are
14 applied to the granting of permission or certificates
15 to the masters, whether they are Canadian, German,
16 Japanese, or what-not.

17 It shouldn't be that Canadians are to
18 be taken as more qualified than the others if it is
19 a question of safety. If it is a question of safety,
20 there should be the same exemption if it is a Greek
21 ship, or any other. It is not a question that the
22 Canadian is going to be more knowledgeable in this
23 stretch of water.

24 MR. LANGLOIS: How could we achieve
25 the same degree of control, My Lord?

26 THE CHAIRMAN: This would be a question
27 for regulation; but if we believe in the exemption
28 on safety -- we make the exemption different between
29 Canadians and others because it is a question of tax,
30



1 but if it is a question of safety, then there should
2 be a set of examinations just the same as for pilots,
3 and they will be obliged to qualify as pilots for
4 this stretch of water.

5 MR. LANGLOIS: My Lord, there is an-
6 other factor which is very important, and I think a
7 similar view was taken by the representative of the
8 shipping interests, and that is the question of human
9 endurance. The master of an ocean ship, and, for
10 that matter, the master of a Canadian ship, could pos-
11 sibly have enough knowledge of local conditions to
12 handle the ship, but has he got the human endurance
13 to do so after coming from a long passage at sea, and
14 after having been occupied at other functions as
15 master of his vessel?

16 This is another factor which you should
17 take into account. In my office I am preparing a
18 series of them which I intend to place before this
19 Commission. I might be anticipating on the final
20 pleadings in saying this...

21 THE CHAIRMAN: I just gave you my re-
22 action to this because I find that I disagree with
23 what you said that the exemption should remain the
24 same should the system be founded on safety.

25 MR. LANGLOIS: Even the present ex-
26 emptions are based on safety, and considering...

27 THE CHAIRMAN: I don't think they are.

28 MR. LANGLOIS: I think that argument
29 there was mentioned in the field of commercial
30



1 pilotage. I don't want to anticipate the pleadings...

2 THE CHAIRMAN: To give you an example:
3 In some places in British Columbia they have studied
4 to quite an extent the qualifications of their masters
5 to travel on a certain run that they are doing twice
6 a month at times, and they are really very qualified
7 to do that, but from a safety angle there would be no
8 objection that they be permitted to pilot their ships
9 there, or not to use pilots. But that is not what
10 they are aiming at. They are aiming at not paying
11 the dues. The dues are just the tax; and, therefore,
12 all the argumentation they make with respect to safety
13 falls flat, because this is not the principle of the
14 law. The principle of the law is that a service
15 should be maintained and that there should be derived
16 enough revenue; and if you exempt all the regular
17 traders then there would be nobody to pay to keep up
18 this service.

19 There are the two different principles.

20 MR. LANGLOIS: And this, My Lord, is
21 true also at the level of the compulsory payment of
22 pilotage dues; and if we have the compulsory payment
23 of pilotage dues then the partial user, or the inter-
24 mittent user, of the service, will have to pay for
25 the service. We have heard witnesses say: "When it
26 is foul weather or when my master is tired I prefer
27 to take a pilot," but this man should be called upon
28 to pay. There should be give and take on both sides.

29 THE CHAIRMAN: And we have heard also
30



1 that the exempting was due to the pilots, that they
2 are not concerned to see compulsory pilotage. They
3 contribute otherwise in the maintenance of the
4 service.

5 MR. LANGLOIS: What I had in mind, My
6 Lord, was that the temporary user, or the intermittent
7 user, should be compelled to pay twice, or three
8 times, the taxes.

9 THE CHAIRMAN: I wanted the evidence
10 straight on that point.

11 MR. LANGLOIS: Q Captain Cobham,
12 Section 24, or paragraph 24, deals with the support
13 of the views expressed by the pilots in regard to
14 CNR ships. Are you prepared to state that this was
15 the view expressed by the National Pilots' Committee
16 in giving its support to their confreres of the Sydney
17 District?

18 A Yes. I think that is referred to
19 in the Sydney brief.

20 Q And the same applied to Paragraph
21 25 of the same chapter; is that correct?

22 A That is correct.

23 Q Thank you, Captain.

24 THE CHAIRMAN: Mr. Brisset?

25
26 CROSS-EXAMINATION BY MR. BRISSET:

27 Q Captain Cobham, on the subject
28 of this last recommendation regarding compulsory
29 pilotage, I was reading the report of the last
30



1 convention at page 14, and I quote this to you:

2 "The chairman had Pilot McKay
3 read a brief which had been made by the
4 B.C. Coast pilots concerning compulsory
5 pilotage. Some of the delegates did not
6 agree to this, but as the chairman advised
7 them it was quite possible it would not
8 suit every pilotage district to be exempt
9 the matter should be left to be discussed
10 after Mr. Langlois arrives."

11 Am I to understand that some of
12 the pilots were against the compulsory pilotage
13 system and others were for it?

14 A I was not chairman of the National
15 Pilots' Committee at that particular time; I was not
16 the chairman.

17 Q Referring to Paragraph 23 on page
18 10 of your brief, where you speak of the statutory
19 exemptions, would you agree -- and I ask you to speak
20 for your association, Captain, -- that if there is
21 to be compulsory pilotage ships should be exempted if
22 there are no pilots available?

23 A Yes, if there is no pilot available.

24 Q And this whether the ship is on
25 an inward voyage or on an upward voyage?

26 THE CHAIRMAN: Or a maiden voyage.

27 THE WITNESS: I wouldn't like to
28 elaborate on that, Mr. Brisset. I leave it up to the
29 inland district. I am not qualified to speak for that.

30 (20,122 follows)



1 THE CHAIRMAN: What about Saint
2 John?

3 THE WITNESS: I think they would
4 anchor outside. I don't think they would attempt it
5 themselves.

6 MR. BRISSET: Q If there were
7 to be compulsory pilotage, as a quid pro quo would
8 you think it would be fair for the pilots to waive
9 their rights of taking tight action?

10 A If there was compulsory pilotage?

11 Q Yes.

12 A Well, there again I don't think I
13 could speak for the various districts.

14
15 --- (At this stage the reporter, at the request of
16 Mr. Langlois, repeated Mr. Brisset's last
question.)

17 MR. LANGLOIS: I deny that such
18 action was ever taken.

19 MR. BRISSET: Q Or to attend
20 prayer meetings?

21 MR. LANGLOIS: My friend is using
22 his imagination.

23 MR. BRISSET: Q Or meetings?

24 A I never knew of pilots striking.

25 THE CHAIRMAN: According to the
26 law, and according to the various regulations of the
27 District, the pilots cannot refuse an assignment; so
28 therefore under the law there is no such right to
29 strike or not to take a ship when assigned to it.
30



1 Q Would you be prepared to concede
2 that there should be no change made in these provisions
3 in law even if compulsory pilotage was to be put into
4 effect? In other words, that pilots should never have
5 the right to refuse an assignment?

6 A For safety every pilot has the
7 right.

8 Q But, I am not speaking of safety
9 at the moment.

10 A Otherwise, no.

11 THE CHAIRMAN: And this has refer-
12 ence to what working conditions, tariffs, and other
13 things are like -- the answer is No?

14 THE WITNESS: Yes.

15 THE CHAIRMAN: Are there any further
16 questions on this matter before we adjourn?

17 MR. BEDARD: Mr. Chairman, Mr.
18 Lalonde may have one or two questions to ask this
19 witness.

20 MR. LANGLOIS: Am I correct in
21 understanding, My Lord, that we are proceeding with
22 the Great Lakes pilots this afternoon?

23 THE CHAIRMAN: Yes.

24 MR. LANGLOIS: Will they take all
25 afternoon?

26 THE CHAIRMAN: This I don't know.
27 Mr. Jacques, do you think the
28 Great Lakes pilots will take all afternoon?

29 MR. JACQUES: Most likely, yes.
30



1 THE CHAIRMAN: Mr. Lalonde thought he
2 could probably finish within an hour.

3 I think it might be a good idea if we
4 have one or two witnesses back.

5 MR. LANGLOIS: At 3:30, or a quarter
6 to four?

7 THE CHAIRMAN: Yes; after the recess.

8 We will adjourn now until two-thirty.

9
10 ---LUNCHEON ADJOURNMENT
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1 ---UPON RESUMING AT 2:30 P.M.:

2
3 MR. LALONDE: Mr. Kuefner, please.

4 ---

5
6 EUGEN, A. KUEFNER, recalled

7
8 DIRECT EXAMINATION BY MR. LALONDE: (Continued)

9 Q Mr. Kuefner, when we adjourned
10 last night you had explained the operation of pilot-
11 age in your District especially as far as dispatching
12 was concerned. You had also given information con-
13 cerning financial statements. Would you have with
14 you a record of what monies were paid over by your
15 group to the Canadian Government for the purpose of
16 dividing the pilotage pool in District No. 3?

17 A Yes, I have that information.

18 Q Could you provide us with the
19 figures which you have in your records?

20 A Yes.

21 COMMISSIONER SMITH: At the same
22 time, Mr. Lalonde, I think in connection with the
23 same question, as I understood the statement made by
24 the witness yesterday he said this -- and I am not
25 too sure that I have it right; correct me if I am
26 wrong -- in 1962 Canadian pilots paid more than the
27 American pilots due to a series of complications.

28 MR. LALONDE: They were paid more.

29 THE WITNESS: The DOT was paid a
30 higher amount per pilot than our pilots earned during



1 1962.

2
3 COMMISSIONER SMITH: Yes. Due to
4 a series of complications?

5 THE WITNESS: Yes.

6 COMMISSIONER SMITH: What I wanted
7 to find out was what were the complications?

8 MR. LALONDE: Q Yes. Would you
9 first give the amounts paid every year in those years
10 and then explain what complications occurred and what
11 you were referring to when you stated that?

12 A Yes, I shall do that. We will
13 begin with 1962. At that time, for that year of 1962
14 we paid the D.O.T. a total of \$46,231.55 for the efforts
15 of their three pilots in our District. That is
16 \$36,354.66 --

17 COMMISSIONER RENWICK: I took that
18 down as \$46,000.

19 THE WITNESS: I am sorry, I gave
20 the wrong figure. It is \$46,231.55.

21 MR. LALONDE: Q That is for the
22 year 1962?

23 A That is for the year 1962.

24 Q And that is money actually turned
25 over to the Canadian Government in 1962?

26 A The monies were not paid in 1962;
27 they were paid later. Parts of it were paid later.
28 But that is the total amount paid for the earnings of
29 the Canadian pilots in 1962.

30 Q Yes. Was all the money paid in



1 the following year or part in 1962 and part in 1963,
2 or has it extended over to 1964 as far as payment for
3 the 1962 year is concerned?

4 A Yes. We paid a part of it in 1962;
5 we paid part of it in 1963 -- I believe it was in July
6 of 1963 -- and we paid in 1964 a total based on a
7 settlement of \$9,876.89.

8 Q So that would be part of your
9 total of \$46,000 for 1962?

10 A That is correct.

11 Q Yes?

12 A All right, 1963 -- originally we
13 paid to the D.O.T. \$32,000... Let me give you the
14 total first. The total paid for the year 1963 was
15 \$34,697.94.

16 Q And was this paid part in 1963
17 and part in 1964 also?

18 A Yes. The final payment of \$2,088.40
19 was made in September of 1964 and that again was based
20 on a settlement arranged between Washington and the
21 D.O.T. Frankly, it is a settlement that was made
22 without giving us an opportunity to object to any
23 part of it.

24 Q Yes?

25 A So it was paid under protest.

26 Q Yes?

27 A Would you care for the 1964 to
28 date?

29 Q Yes, you might just as well give
30 it.



1 A I believe I gave you the latest
2 statement on that. It was referred to as the Inter-
3 Association Settlement statement for the Lake
4 Superior Pilots' Association.

5 Q You might just as well get it in
6 the record now. We can find the document.

7 A On this statement which is dated
8 September 30th, 1964 it shows the share that is due
9 the Canadian Government for the operation of the
10 Canadian pilots in our District 3 to be \$36,210.30.
11 We anticipate, and this is strictly a guess, that
12 there will be at least an additional \$5,000 that will
13 be paid.

14 Q Before the end of the season?

15 A For the season.

16 Q For the season?

17 A Yes. This is not the sum that has
18 already been paid. This is a rather complicated
19 formula based upon the actual collection of the amounts
20 earned and we are not required to pay the D.O.T.
21 until the collections are made from the agents. So
22 a portion of this has not been paid and even at the
23 year's end it will not be paid in full because there
24 are outstanding accounts receivable and as those
25 are collected and when they have been collected in
26 full then the entire payment will have been made to
27 the D.O.T.

28 Q Those figures you gave, were they
29 in Canadian or American money?
30



1 A Those are in American funds.

2 Q These are American dollars?

3 A That is correct. Perhaps to give
4 a better insight into these figures I can give you
5 still further information on them. For example, in
6 1962 the Department of Transport was paid \$46,231.55,
7 which was 20 4/10 percent of the total pilotage fees
8 available for distribution.

9 Q 20...?

10 A 20.4 percent. And I believe that
11 based on a combination, actually based on the number
12 of pilots rather than the days available or amounts
13 earned it would figure at 17.65.

14 1962 was an odd year. It was
15 still in the formative stage and the first part of
16 the year was based on days available and the second
17 part of the year was based on the amounts earned by
18 the pilots. We were directed by Washington -- and as
19 we understood it was at the objection or at the in-
20 stigation of the Canadian Department of Transport --
21 that we place Canadian pilots on the Sioux River in
22 order to increase their earnings which they felt were
23 below standard. In so doing, we have a very uneven
24 or lopsided condition where they earned far more than
25 the average during the latter part of the season
26 because we were paying them based on the actual
27 dollars earned.

28 As a result, based on these
29 figures, there was received about two and a fraction
30



1 percent more of the total funds available than would
2 have been paid had we gone on strictly the days
3 available.

4 In 1963 our original payment to
5 the D.O.T. was \$32,609.54. Again, as a result of
6 negotiation or agreement between the D.O.T. and
7 Washington, we were required to pay the additional
8 \$2,088.40. Thus, based on our interpretation of the
9 amount available for distribution the Canadian pilots
10 were paid approximately 1/2 percent more per man than
11 our United States pilots earned during the year.

12 In 1964 to date the earnings between
13 the Canadian and U.S. Pilots are very, very nearly
14 even. It is less than 1/2 percent difference. At
15 this point the Canadian pilots have earned slightly
16 less on average than the U.S. pilots. We anticipate
17 that at the end of the season their earnings will be
18 slightly higher but a very minimal amount.

19 Q Thank you very much. Now, would
20 you explain what you were referring to when you re-
21 ferred to complications and a settlement above your
22 head between Washington and Ottawa which produced
23 additional payments for the year 1962 and the year
24 1963?

25 A We passed on to Washington our
26 figures including the expense items we felt were
27 logical and fairly to be divided proportionately
28 between the U.S. and Canadian pilots -- or the U.S.
29 association and the D.O.T. The D.O.T. took exception
30



1 through their auditors, or as a result of the audit,
2 to some of the figures which we included. That is
3 both during 1962 and in 1963 in the final statement
4 for those two years.

5 The Canadian Government took ex-
6 ception -- I will cover 1962 first -- to some of the
7 figures and the settlement was made between the D.O.T.
8 and the Great Lakes pilotage administration in
9 Washington. The reason we paid under protest was
10 that we had no voice in the settlement.

11 One of the factors involved was
12 the fact that we were required to reduce our admini-
13 strative deductions based upon the percentage of
14 administrative expenses allowed in District 2, and
15 as I mentioned yesterday the difference in admini-
16 strative costs does not go according to percentage
17 figures if you have a variance in total dollars
18 billed. We had a total billing of about \$300,000.
19 District 2 had about \$500,000. I indicated yesterday
20 that this year we are having about a 40 percent in-
21 crease at this point through September and our
22 actual administrative expenses have been reduced. I
23 mentioned that to point out that administrative
24 expenses do not go in the direct ratio of sales or
25 total income.

26 So we did feel that it was an
27 unfair settlement, but we had no opportunity to
28 express that.

29 Q Excuse me; when you said that the
30



1 first reason was that there was a requirement for re-
2 duction of the expenses on a proportionate basis,
3 what do you mean? You were told you had to cut your
4 expenses by so much percentage. What are you refer-
5 ring to there?

6 A I am referring to what we term an
7 administrative and general expense as listed in our
8 financial statements.

9 Q Yes?

10 A The major figures that were in-
11 volved and which increased the amount we were re-
12 quired to pay are those of legal expenses.

13 Q Yes?

14 A That is the major expense. Then
15 perhaps you can lump all the other expenses together
16 and include them as administrative expenses. It is
17 not exactly how it is done, but it is rather compli-
18 cated to explain it in detail.

19 Q I see.

20 A We had reduced the charge for
21 legal expenses based upon an analysis by our legal
22 adviser as to what portion of his legal expenses
23 could justly be felt to have been for the benefit
24 of both U.S. and Canadian pilots.

25 Q Yes.

26 A This was a lower figure than our
27 total legal expenses but we felt it was fair and just.
28 But the Department of Transport felt that no portion
29 of our legal expenses should be included.
30



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Kuefner, Dr Ex
(Lalonde)

20,133

1 Q I see.

2 A As a result of manoeuvring, I as-
3 sume, between the D.O.T. and our Great Lakes pilotage
4 administration, they finally determined that we would
5 be allowed a percentage figure -- I do not recall what
6 it was -- of perhaps 9 percent which was the figure
7 that was allowed in District 2 for their administrative
8 expenses. That also is a figure that we objected to
9 because it is not a fair comparison.

10 Q That is, you were allowed to charge
11 to the Canadian share 9 percent of your administrative
12 expenses?

13 A Nine percent of our income as ad-
14 ministrative expenses. Perhaps I have the exact
15 figure here. Let me check.
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1 Q Let me try and clarify this matter,
2 Mr. Kuefner, while we are waiting for the figure itself.
3 In your association the total pilotage dues or total
4 pilotage fees you get are supposed to pay for pilotage
5 income and pilotage administration; is that correct?

6 A Yes.

7 Q Then the pilots get as net income
8 what is left after the administrative expenses have
9 been paid?

10 A After all expenses, administrative,
11 plus the amount paid to the D.O.T.

12 Q Yes. Now, the D.O.T. gets an amount
13 from which the administrative expenses of the associ-
14 ation have been deducted, don't they?

15 A Yes.

16 Q Normally it is all the administrative
17 expenses of the district, that is pilot boats, dis-
18 patching costs, telephone, telegraph, etcetera?

19 A All of that type of expense, but
20 not the expense that is not directly involved in over-
21 all pilotage. I refer to figures as the U.S. Income
22 Tax and the unemployment tax. Items such as that.
23 Certain items of insurance, health insurance. Those
24 items have not been deducted but borne of course by
25 the U.S. Pilots since they are the ones that benefit.

26 Q I see. This type of special
27 charges for American citizens, let us say, are
28 finally made to the American pilots?

29 A That is right, yes.
30



1 Q But apart from those normally the
2 Department of Transport would pay his share of the
3 administrative expenses?

4 A Yes.

5 Q Now, you told us you had a dispute,
6 or there was a dispute with the Department of Transport,
7 the Department of Transport refusing to pay legal
8 fees; is that correct?

9 A Yes.

10 Q And certain other expenses?

11 A Yes.

12 Q And that finally settlement was
13 reached between Washington and Ottawa without consul-
14 tation with you; is that correct?

15 A Yes. The final settlement was
16 made between Washington and D.O.T., and although we
17 had protested to Washington that the figures in our
18 opinion were not proper, the settlement was made.

19 Q And you were ordered to pay to the
20 Canadian Government so much?

21 A Yes. \$9,876.89.

22 Q For 1962?

23 A Yes. That was an additional pay-
24 ment. Easy figures to remember.

25 Q Now, you mentioned a percentage a
26 while ago. You said something like 9 percent. The
27 exact amount is not that important. What I want to
28 know is what are you referring to when you say 9
29 percent?
30



1 A I am referring to the percentage of
2 pilotage income that District 2 was allowed to deduct
3 in the inter-association settlement statement to cover
4 all administrative expenses. That includes salaries
5 and wages, telephone, insurance, postage, repair work,
6 legal expenses, administrative travel. All admini-
7 strative general expenses.

8 Q Was this set out as a flat percent-
9 age that you could deduct?

10 A Yes.

11 Q Or is it a maximum?

12 A This was set up as the exact de-
13 duction that was made by District 2 regardless of
14 dollars.

15 Q I see. Is this ruling going to ap-
16 ply this year, for instance, that you will be allowed
17 to deduct 9 percent of the total earnings for admini-
18 strative expenses from the amount you would pay to
19 the Canadian Government?

20 A No. This was a special settlement
21 made for just the year 1962.

22 Q I see.

23 A In 1963 rather than use a flat
24 percentage figure --

25 Q Yes.

26 A -- we had submitted all of our ex-
27 penses, and the D.O.T. took exception to some of them.
28 Primarily to our legal expense.

29 Q Yes.
30



1 A And as a result the legal expense
2 was completely excluded from our expenses of
3 operation.

4 Q I see.

5 A All parts of it.

6 Q Do you know if my legal expense
7 would be excluded this year?

8 A We must assume that all of our
9 legal expense must be borne by the U.S. pilots since
10 we are not allowed to deduct any legal expense of any
11 kind from our settlement with the D.O.T.

12 Q I am suggesting you might try
13 your hand once more and see. Now, for last year no
14 legal expenses were allowed; is that correct?

15 A No legal expenses were allowed.

16 Q Do you have any ruling as to what
17 the procedure is going to be from now on? Is it the
18 same as last year?

19 A The same in 1964 as 1963. No
20 legal expense would be allowed. We have administrative
21 travel expense. They took exception to portions of
22 that. Part of it was allowed. Part was not allowed.
23 We felt that the entire amount we charged in there
24 should be allowed because it was used principally to
25 attend a meeting in Washington called by the Great
26 Lakes Pilotage Administration. It covered the ex-
27 pense of two trips to Chicago in which we were working
28 out the details of our working rules, and our inter-
29 pool working rules, and of course both the U.S. and
30



1 Canadian pilots operate under those rules, and both
2 groups of pilots will benefit by the proper develop-
3 ment of them.

4 Q Yes. Well, there was a meeting in
5 Detroit, a public hearing in Detroit?

6 A That was in 1964.

7 Q Would that expense be allowed as
8 deductible expense for all pilots, or should it be
9 borne only by the Canadian pilots -- by American
10 pilots, I am sorry?

11 A That, sir, will be a bone of
12 contention at the end of the year because at this
13 point we have included the expense of attending that
14 meeting in our association settlement statement. We
15 have been told it will not be allowed, but we are in-
16 cluding it nevertheless.

17 Q You referred to working rules
18 which were set out, and we have filed your own work-
19 ing rules yesterday. I am referring to a document
20 filed as Exhibit 1090 entitled "Pilots' Working Rules,
21 Great Lakes Pilotage District, No. 3, compiled by
22 Pilotage Section, Department of Transport, Ottawa,
23 1962."

24 Have you had cognizance of this
25 document?

26 A No. I did not have it as an op-
27 erating tool in 1963.

28 Q Have you seen that document before?

29 A If I have, I don't recall it. It
30



1 is possible I have, but I don't recall seeing it
2 before.

3 Q You don't recall having received
4 a copy of this from the Department of Transport?

5 A No, I do not.

6 Q Have you ever received comments
7 from Washington to the effect that such working rules
8 would exist?

9 A Not that I can recall.

10 Q There was never any complaint by
11 the Department that these rules were not followed or
12 a request that they should be followed or anything
13 of that sort?

14 A No, there has been no complaint
15 regarding our method of dispatching our working rules
16 that I can recall at this point.

17 Q Now, Mr. Kuefner, there are a
18 certain number of questions which Captain Rico referred
19 to you yesterday, and I would like to refer to your
20 brief filed as Exhibit 1376. If you refer to page 10,
21 you have complained there has been no discussion of
22 certain matters between the Department of Transport
23 and the Lake Superior Pilots' Association, and you
24 feel that the decisions which have been made were
25 not fair.

26 I presume you are referring here
27 to the particular incidents you have just referred to
28 in your testimony?

29 A Yes.
30



1 Q Allocation of costs --

2 A That is part of it. Yes, that is
3 certainly part of it.

4 Q You say it is part of it. Is
5 there any other matter which comes to your mind as
6 being important?

7 A Not at the moment.

8 Q Now, I refer you to page 12 where
9 you take exception to the notion of a central control
10 dispatching for District 2 and District 3. Captain
11 Rico made certain statements in that respect. Do you
12 have remarks yourself from the dispatching point of
13 view; that is, from your experience?

14 A Yes, I think there are factors
15 that I believe Captain Rico touched on but I would
16 like to also explain.

17 Q Yes.

18 A One of them being that District 3
19 is quite different from District 1 and 2 in that it
20 is a terminal point and involves a very large area
21 compared to the areas of the other districts.

22 Where you have a large area such
23 as we have, we have considerable problems with the
24 matter of stationing pilots where they are needed
25 and when they are needed. It is my opinion that if
26 we did not have a separate district where we would
27 have a careful examination and knowledge of traffic
28 patterns, of the seasonal requirements, of the inform-
29 ation that is available to agents and which they give
30



1 out to us on request, partially at least, because of
2 the very good-will, the very excellent good-will that
3 exists between the local group in District 3 and the
4 agents -- if we didn't have those things the cost of
5 operating the pool would be greatly expanded. Ex-
6 panded because there would be much more travel if the
7 pilots were not properly stationed. There would be
8 much more delay to the ships, and each individual
9 pilot would not be able to perform as great a pilot-
10 age service because he would be spending more of his
11 time in dry travel. In other words, travelling from
12 one area to another in the district.

13 Q Yes.

14 A There is a very definite seasonal
15 pattern. Perhaps just to explain, I can take what
16 will happen, at least partially, the balance of the
17 season. We have received word from the agents in
18 Duluth that there are between 30 and 35 additional
19 ships coming to Duluth. These are vessels that are
20 making their last time through the Lakes. They want
21 to come up here, up to Duluth, and get their last
22 cargo of grain and get back and out before the locks
23 close for the season.

24 As a result of that push, all
25 coming one way to a terminal point in Duluth or
26 Fort William-Port Arthur, if we don't handle the
27 situation properly we will find we have all of our
28 pilots in one area. None of them in the other area;
29 no way of servicing additional ships that come up,
30



1 and men sitting in Duluth waiting for their ships to
2 load and go down, or at Fort William-Port Arthur. I
3 mean the two.

4 Q You mean the Lakehead generally?

5 A Yes, and then when the ships go
6 down we may find the reverse very true; that we will
7 have very suddenly a number of the ships leaving
8 Duluth which would bring all the pilots that we have
9 here, leaving no pilots for those ships that do not
10 have B certificates or those that do have B certificates
11 that wish pilots in the harbour, and some of whom wish
12 pilots over the lake.

13 So we must be very, very careful
14 to keep the pilots stationed where they are needed.
15 If we have eight ships coming to Duluth and we have
16 these additional ships coming to Duluth, we must im-
17 mediately get pilots from Duluth back to where we
18 pick up additional ships before those ships arrive in
19 order to save both time and money. Time and money on
20 the part of the pilots as well as the ships.

21 Then, at the end of the season we
22 must be very careful not to send that last group down
23 but to try and concentrate as many as the situation
24 demands in Duluth, Fort William, so that we will have
25 men available to take those ships back down the lake.
26 If there is not local control and local knowledge,
27 this problem could result in chaos.

28 Q In other words, you are trying to
29 follow the ships very closely as they move as a group
30



1 from one area to the other?

2 A Yes, because of the terrific mile-
3 age involved. It can take as much as 48 hours, or
4 44 hours to have a man go from Duluth to Port Huron.
5 I say that not because the plane or train or bus
6 takes that long, but because the pilot can get into
7 Duluth just after the last plane has left, and then
8 he will have to wait until the next plane is
9 available.

10 In Fort William-Port Arthur there
11 is one plane a day. At the Soo we have a comparable
12 problem. At Port Huron we have a problem of getting
13 men up here because he must leave in time to get to
14 Detroit to get the plane up there, and that entails
15 the need for running cars on occasion in order to
16 make the necessary connections.

17 Q During the course of this year did
18 you have complaints from agents about ships being un-
19 duly delayed in your district?

20 A We have to the best of my knowledge
21 not received a single complaint from an agent in our
22 office regarding delay, undue delay of ships. I
23 mentioned yesterday too that we have requested not
24 more than a total I don't believe, of more than six
25 waivers which allows the ship to go without a pilot.
26 One of those is in the restricted area and the others
27 would be between Gimley and Fort William-Port Arthur.

28 In District 3 we have made every
29 possible effort to minimize the number of waivers.
30



1 Perhaps I could give a comparison between dispatching
2 in Chicago and in Duluth, so long as that is mentioned,
3 and I want to repeat again that District 3 is not just
4 the St. Mary's River and Lake Superior. District 3 is
5 Lake Superior and St. Mary's River exclusively and
6 Lake Huron and Lake Michigan which is divided with
7 District 2. So that our division or our Section 3
8 comprises the area from Port Huron to the farthest
9 point in Lake Superior, and any and all connecting
10 waters between those two points.

11 Q Who dispatches your pilots in the
12 Lake Huron and Lake Michigan area? Are they dispatched
13 from Port Huron or Duluth?

14 A Port Huron dispatches pilots between
15 Port Huron and points on Lake Huron and Lake Michigan
16 if the ship comes past Port Huron coming up the lake.

17 Q Yes?

18 A If the ship is going down into
19 Lake Michigan from Duluth or other areas, the dis-
20 patch is made at Detour in the St. Mary's River.



1 Dispatch in Chicago: The actual
2 dispatching activity is handled through District 2,
3 and Chicago has been a serious problem -- serious in
4 that the dispatcher there is a tug company and they
5 have a somewhat lack of interest in pilotage, with the
6 result that they make no attempt seemingly to follow
7 the movement of ships, and this, of course, results in
8 the need for waivers, the need for hurry-up calls and
9 expensive transportation.

10 We also find that there are oc-
11 casions when our pilots have complained that they were
12 not given due pilotage because of circumstances beyond
13 their pilots' control.

14 Q Now, I would like to proceed to
15 your recommendation no. 3 where you request more
16 authority at local level. You mention in the first
17 paragraph where you had a director from Washington
18 ordering that a particular Canadian pilot be assigned
19 to a particular area of pilotage. Are you aware of
20 this situation?

21 A Yes; we received a directive, we
22 presume as a result of a complaint by D.O.T. passed on
23 to us from Washington, that a Canadian pilot be
24 established or be situated in Duluth and receive ex-
25 act pilotage based on the days available of the
26 Canadian pilots with the U.S. pilots as Duluth pilots
27 have. In other words, they insisted that we must
28 have equal participation in every area in our work,
29 in time available and in dollars earned.
30



1 Q When was that -- this year or last
2 year?

3 A That has been within the past --
4 that was in August we received this request.

5 Q This year?

6 A Yes, August 1964. The letter out-
7 lined their interpretation of the act and the regu-
8 lations which stated that U.S. and Canadian pilots
9 must have equal participation in all areas, and then
10 they insisted that this be followed only in Duluth.
11 In other words, it has appeared that they were insist-
12 ing we do something that was against what they had
13 just said were the regulations.

14 Actually, it is impossible to give
15 exact equal participation in all areas. It would
16 mean that we would have to give the man an equal
17 number of days in each port, or hours, equal income
18 and equal number of ships. That, of course, is im-
19 possible to do.

20 An easy illustration is to show
21 how oddly these can develop. We had two pilots, one
22 Canadian -- I believe it was Captain Harrison -- al-
23 though I am not sure -- and one of our American pilots.
24 They took out a ship in 1963 at almost the identical
25 time. They stayed on that ship almost identical hours.
26 It was about eight, nine or ten days. Just for the
27 purpose of illustration, let us say it was ten days.
28 One pilot went to Chicago and sat on the ship for
29 three or four days and did nothing; so, as a result,
30



1 his income was \$50 a day, or to the pilot, \$40 a day.
2 That was a Canadian pilot. The American pilot happened
3 to be on a ship that made about every port and not
4 only stopped at the ports but also made moves in the
5 port. The result was that the total amount of earn-
6 ings of the U.S. pilots was approximately \$300 greater
7 than the earnings of the Canadian pilot, and of this
8 at the time of the assignment we were and could not
9 have been aware.

10 So with that situation developing
11 constantly throughout the season I think you can under-
12 stand why it is impossible to give exact participation
13 in every area of pilotage.

14 Q Am I correct in understanding then,
15 that what you are aiming at, then, is at an equal
16 amount of net earnings for Canadian pilots as for the
17 American pilots who would have stayed on duty as long
18 as the Canadian pilots? Is that the way you work it
19 out?

20 A Yes.

21 Q Is that the aim?

22 A Those were the instructions given
23 us in 1963, that we were required to see that the
24 Canadian earnings were identical with U.S. earnings
25 based upon the days available, and the settlement was
26 based upon the days available.

27 Q And that is what you have been
28 doing?

29 A That is what we have been doing
30



1 this year when we received the directive; again you
2 can see the handicap that we are not able to have
3 direct communication. We are unable to have a dis-
4 cussion and perhaps work out the problem after in-
5 dicating all the serious sections that would make it
6 impossible to have equal participation. It is rather
7 frustrating not being able to contact them when you
8 feel that perhaps with an hour's discussion you could
9 give the detail and, through discussion, come to a
10 good, sound, logical conclusion. But we are not able
11 to do that at the present time.

12 Q I understand you were given a
13 directive to the effect that you were not to contact
14 directly the Department of Transport; is that correct?

15 A Yes, that is right.

16 Q Now, these directives were given
17 by Washington; is that correct?

18 A Yes.

19 Q I am showing you a photocopy of a
20 letter dated April 23, 1964, from Captain Michener
21 to the Lake Superior Pilotage Association, concerning
22 the directive I have just referred to?

23 A Yes.

24 Q That is, the prohibition of direct
25 communication with the Department of Transport. Is
26 that the document?

27 A That is the letter we received,
28 yes.

29 MR. LALONDE: I would like to file
30



1 this, My Lord, as Exhibit 1396.

2
3 ---EXHIBIT NO. 1385: Letter dated April 23.
4 1964, from Captain Meschter
5 to the Lake Superior
6 Pilotage Association, Inc.

7 Q Now, we shall proceed to the next
8 recommendation. Would you look at the top of page 15.
9 You have a statement there that the pilot -- that is,
10 the free enterprise pilot -- could take time off with
11 this and not need to be the subject of special enquiry
12 or discipline. It seems to me a pretty broad state-
13 ment. Does this correspond with your rules, or the
14 practice you are following? That is, can any man in
15 your Association decide to go out of the list without
16 any risk of being subject to enquiry or discipline?

17 A That is not completely the way we
18 have it. It doesn't require special rules other than
19 those we now have in our working rules.

20 But, one thing that must be kept
21 in mind is that if a pilot takes a day off, or two
22 days off he has no income. In other words, he isn't
23 paid a daily amount. He must earn what he gets
24 through pilotage. Since these pilots have only a
25 seven and a half or eight months season at the very
26 most we find that they rarely will ask for time off
27 unless it is illness. It has a tendency to police
28 itself because they are harming themselves if they
29 take time off. We find that they are very anxious to
30 earn every penny they can earn during the season.

Q But if I understand you well, any



1 person who wishes to take time off has to obtain per-
2 mission from you first?

3 A Yes.

4 Q Nobody can just declare he is off
5 the list without reporting first to you and obtaining
6 permission?

7 A He is not allowed to do that. If
8 he does that we have an examining board that will
9 take care of the matter.

10 Q Now, back to procedure recommend-
11 ation No. 7 at pages 17 and 18. You are requesting
12 more direct contact with D.O.T., and you have al-
13 ready spoken on this subject. Do you have anything
14 to add to what you have already said?

15 A I think I have covered it in several
16 references.

17 It just seems as though we, as an
18 employer of pilots, and D.O.T. as an employer of
19 pilots, should be able to get together and discuss
20 this as two units. And thus eliminate the need for
21 higher Governmental Department interference, or,
22 perhaps not interference, but time and effort ex-
23 pended on it when they could use that time and effort
24 to better advantage in other areas.

25 Q Finally, I have a few questions
26 which were raised in the list of questions prepared
27 by the Commission and addressed to the Department of
28 Transport. The first question is:

29 Was there any discussion between
30



1 your Association and the Department of Transport con-
2 cerning the allocation of cost to be charged to the
3 Department for the operation of the district -- that
4 is, direct discussion; you have already stated that
5 there has been discussion above your head between
6 Ottawa and Washington; but prior to the audited state-
7 ment -- at the beginning of the system -- was there
8 any direct discussion where you were present, or in
9 which you participated, concerning how costs would be
10 divided between Canadian and American pilots, or the
11 Canadian Government and American pilots?

12 A I don't recall discussion with
13 members of the D.O.T. We did discuss it with the
14 auditors sent to us by the D.O.T., particularly this
15 Spring, but received a rather curt reply that their
16 conversation wasn't to be with me but with the
17 Washington representative who was with them; so our
18 communication was somewhat limited. They were very
19 fine gentlemen, but obviously had had their instruct-
20 ions.

21 Q Now, would you know whether the
22 Canadian District No. 3 pilots have done any pilotage
23 prior to or after the navigation season in 1961, 1962
24 and 1963? Were there Canadian pilots in 1961?

25 A Yes; I wasn't with the Association
26 and I would have to speak from hearsay, but in 1963
27 and 1964 I have been with the Association and I as-
28 sume that the season as outlined here -- it begins...
29 What is the date that is listed there as the beginning?
30



1 Q Unfortunately the question doesn't
2 list any specific dates, but one could assume from the
3 15th of April to the 1st of December. Is that what
4 you would call the navigation season?

5 A If you assume that is the navi-
6 gation season then Yes, the Canadian pilots have op-
7 erated as pilots in our district both before and after;
8 after in 1963 and before in 1964. I believe the
9 Canadian pilots began on the 13th -- I have that in-
10 formation here; I believe they started on the 13th of
11 April this year. Last year we had two Canadian pilots
12 in the St. Mary's River after the 1st of December,
13 and those Canadian pilots were not forced to go there
14 by District 3. Instead we requested from Captain Jones
15 that two of the three Canadian pilots be allowed to
16 work in the St. Mary's River after December 1st to
17 help handle the traffic that would develop at that
18 time, and this permission was immediately granted.

19 Q Now, so far as the operation of
20 your pool is concerned, do you have a period in the
21 year in the early beginning or the end of the season
22 where monies earned by pilots would not go into the
23 pool, because we had that experience with the district
24 2 Canadian pilots?

25 A We never operated District 3 on
26 that basis. Every money earned by the Canadian pilots
27 has gone into the pool and has been distributed based
28 on the inter-association settlement.

29 Q So that, in fact, to come to a
30



1 question I have asked before in this District, the
2 navigation season is all the time any pilotage would
3 be done?

4 A Any time a pilot is needed that is
5 part of the navigation season.

6 Q And all that goes into the pilot-
7 age pool?

8 A Yes; no part is paid directly to
9 any man -- any captain -- in the District.

10 Q And at no time of the year could
11 one say that if a pilot earns something he is not
12 earning that money as a pilot?

13 A Not that we are aware of. Pilots
14 don't operate outside of our Association.

15 MR. LALONDE: Thank you.

16
17 CROSS-EXAMINATION BY MR. BRISSET:

18 Q What is the procedure followed in
19 your District to obtain a waiver? How do you go about
20 it?

21 A If a ship requires a waiver we re-
22 ceive this information from the dispatcher. We check
23 all the circumstances to be sure that a waiver is
24 needed, first; but assuming that a waiver is needed
25 we first must contact the coast guards. If the
26 waiver is required from Duluth to another point we
27 must contact the coast guard at Duluth; the coast
28 guard at Duluth must contact their office in Cleveland,
29 I believe. Cleveland must relay the message to the
30



1 coast guard in Washington; and the coast guard in
2 Washington then must locate one of the officers of
3 the Great Lakes Pilotage Administration, and I would
4 assume that to be either Captain Meschter, Mr. Weaver
5 or Mr. Butts; they must approve the request for the
6 waiver. Then they go back through the chains. They
7 must report to the Washington coast guard; the
8 Washington coast guard must report to the Cleveland
9 coast guard; the Cleveland coast guard must report to
10 the Duluth coast guard; and the Duluth coast guard
11 must contact us as well as the ship and state that
12 there is or is not a waiver available.

13 MR. LALONDE: This looks like
14 Canada!

15 MR. BRISSET: Q You told us that six
16 waivers were obtained. I suppose the matter was put
17 in train from your office at Duluth?

18 A Yes.

19 Q And was one at the Soo, and...?

20 A All this originated in the St.
21 Mary's River dispatch office. They are, of course,
22 not allowed to request a waiver since that is not our
23 office; that is just the dispatch office; so the dis-
24 patcher there must be controlled so that he may not
25 just promiscuously ask for waivers himself.
26
27
28
29
30



1 He must first report it to us and
2 we must file that procedure again at the St. Mary's
3 River. It becomes just a little more complicated be-
4 cause adding to all these other steps I have outlined
5 the dispatcher must first contact us and we must in
6 turn telephone the coast guard.

7 Q You go through the whole rigmarole
8 and finally contact the St. Mary's dispatcher?

9 A Yes.

10 Q From your experience last year how
11 long does it take to go through all this circus?

12 A I think approximately two hours.
13 It should not take that long but it seemed like it
14 did take approximately that long.

15 Q Were the ships delayed in the six
16 cases you had to deal with waivers?

17 A I do not believe they were delayed
18 because in each instance our dispatcher was aware of
19 the coming of these ships and of the pilots available,
20 and as a result knew before the ship arrived at the
21 port that a waiver would be necessary and then the
22 waiver was requested.

23 I think there may have been some
24 exceptions. I believe I recall one that had to go
25 to anchor for perhaps two hours at Grimley because of
26 the need for a pilot. Occasionally, a ship will give
27 us only one hour's notice of the need of a pilot at
28 Detour. When that ship does it we of course could
29 ask them to go to anchor since they are required to
30



1 give us more notice than that. However, in our opinion
2 that is not efficient pilotage and we do everything
3 possible to service the ship.

4 So for that reason there would
5 have been delay in the one instance at Grimley wait-
6 ing for a pilot, because we had to assign a pilot at
7 the last minute to a ship that had given rather short
8 notice at Grimley. It was coming up through Lake
9 Michigan and we were not aware it was coming.

10 Q You spoke yesterday of your dis-
11 patching procedure and told us you had two rosters,
12 one for harbour and one for trans-lake?

13 A Yes.

14 Q Am I right in understanding that
15 the roster which you call the harbour roster includes
16 pilotage in the Sioux?

17 A We have a harbour roster in the
18 Sioux River.

19 Q You call that a harbour roster?

20 A Yes. That is to cover the movement
21 of ships between the Sault Ste Marie terminal and al-
22 most exclusively the Algoma Steel plant and Grimley.

23 Q Will you explain to me exactly
24 from where dispatching is done? Let us take the
25 harbour of Duluth first of all. I assume the dis-
26 patching is done from the office in Duluth?

27 A Yes.

28 Q As far as the dispatching in the
29 Sioux River is concerned, from where is it done?
30



1 A Our dispatcher is located at Detour.

2 Q You have a local dispatcher who
3 does the dispatching?

4 A Yes.

5 Q Both up and down the ~~St~~ouX River?

6 A Right, if it is just a river move.
7 Of course, ships that are going across the Lakes and
8 have a pilot on them -- those without B certificates
9 have pilots on them, so those with a B certificate do
10 not require a pilot across the lake -- would have a
11 dispatch from Detour.

12 Q And the other way, that is, trans-
13 lake from Duluth to Detour, I assume it is done from
14 your office in Duluth?

15 A Yes.

16 Q What about Chicago and ports in
17 Michigan that you may serve? From where is the dis-
18 patching done?

19 A If the ship involved is going down
20 the St. Lawrence River, in other words coming from
21 Lake Superior, the dispatching to ports in Lake
22 Michigan and Lake Huron is done by our dispatcher at
23 Detour. If the ship comes from the east to Port Huron
24 the dispatching is done by the dispatcher at Port
25 Huron.

26 Q If you have a ship that has come
27 to Chicago without a pilot, having on board a B
28 certificated officer, and that ship wants a pilot in
29 the harbour of Chicago so she goes into Calumet Harbour,
30



1 from where will the dispatching be done?

2 A It will be done from the dispatch-
3 ing office in Chicago.

4 Q How are all these dispatching
5 officers or dispatchers connected with your main office
6 in Duluth, if there is any connection between all of
7 them?

8 A We have almost constant communi-
9 cation, communication at any time it is necessary --
10 a minimum of twice daily between Duluth and Detour --
11 in which all dispatching is listed. We have contact
12 with Fort William/Port Arthur as needed by our dis-
13 patcher there.

14 Q You also have a dispatcher on the
15 spot at Fort William and Port Arthur?

16 A Yes. We have contact between
17 Detour and Port Huron a minimum of twice daily.

18 Q Are all these dispatchers perma-
19 nent employees employed full-time?

20 A They are dispatchers under contract.
21 There is a difference between being under contract
22 and being an employee. We pay a contractual price
23 for the dispatching services and make no deductions
24 for taxes and what not.

25 Q Is dispatching in the ~~Sioux~~ done
26 under contract, or by another method?

27 A No -- contract.

28 Q Under contract too?

29 A Yes.
30



1 Q The dispatching in your office in
2 Duluth is not under contract?

3 A That is done by a salaried employee.

4 Q Is there any method followed to
5 get information on the flow of traffic coming from
6 the east into your area of operation?

7 A We have in addition to twice daily
8 contact between Detour and Port Huron approximately
9 once a day contact between Duluth and Port Huron. In
10 all of these contacts an effort is made to receive
11 from the Port Huron office information on any ships
12 that are coming west or, in other words, have come
13 from the east and are coming into our area.

14 Q What means are used to keep a
15 check on your pilots of your district, to know where
16 they are at all times?

17 A We receive from Port Huron a twice
18 daily listing of our pilots who are available at Port
19 Huron. We also receive from them information on all
20 assignments. There are men for instance who are as-
21 signed to go into Lake Michigan from Port Huron.
22 That is, District 3 pilots are assigned from Port
23 Huron to go into Lake Michigan and as a general rule
24 we know approximately how long they will be in the
25 ports they contact.

26 However, we do not get as much in-
27 formation as we would like to get with the result
28 that occasionally a man is in Chicago and we do not
29 know why he is there as long as he is.
30



1 Q Have your pilots under your working
2 rules an obligation to report as soon as they have
3 completed an assignment -- and by completion of an
4 assignment I mean arrival in port?

5 A On the completion of any assign-
6 ment our pilots are required to contact the closest
7 dispatch office. In some instances that might not
8 be the closest, but depending upon where it is. If
9 they were within the vicinity of Chicago they would
10 contact the Chicago dispatch office. If they were in
11 Green Bay they might contact the Chicago office, and
12 on occasion they have contacted Duluth. But general-
13 ly speaking, they will contact the Chicago office if
14 they are in a reasonable radius of Chicago.

15 In Lake Superior when they have
16 completed an assignment, if it is at Fort William
17 they immediately phone the Fort William dispatcher.
18 If it is in Duluth they immediately contact the dis-
19 patcher in Duluth.

20 Q If it is in Red Rock for instance?

21 A Then they would contact the dis-
22 patcher in Fort William. They are quite anxious to
23 contact them because if they do not they do not go on
24 the local roster and since that is money out of their
25 pocket they contact them immediately so that they can
26 get an assignment as quickly as possible.

27 Q Would you take before you Exhibit
28 1381, the one entitled Lake Superior Pilots'
29 Association Inc. profit and loss statement?
30



1 A Yes.

2 Q Under the heading of "Income" I
3 find that you list the income for what is called
4 Duluth-Superior and then trans-lake. Let us assume
5 that a ship is moved within the harbour of Duluth.
6 Keeping in mind that the charge is a charge based on
7 two headings, namely \$50 per day or part of day, and
8 \$25 for a moveage, what do you enter under the heading
9 Duluth-Superior -- the whole \$75, or do you split the
10 charge between trans-lake and Duluth-Superior?

11 A That is a harbour move and the en-
12 tire charge for the harbour move, even though it in-
13 volves a charge for hours, the entire charge is placed
14 under the Duluth-Superior portion of the income.

15 Q Suppose you have a ship coming in
16 to Duluth with a trans-lake pilot on board and he
17 docks the ship. Under which of these two headings
18 would you enter the revenue there?

19 A The entire charge involving the
20 trip across the lake and the entry into Duluth and
21 the docking of the ship in Duluth is placed under
22 the trans-lake portion of the income.

23 Incidentally in our office we
24 have it broken down between docking and undocking
25 and the trans-lake work, but since the system of ac-
26 counts as determined by Washington does not require
27 that breakdown it is not given on our financial
28 statement. But we do include the entire charge on
29 the trans-lake move across the lake and in the Duluth
30



1 Harbour in the trans-lake fees. If that trans-lake
2 involves a movement from the St. Mary's River, then
3 the fee for the St. Mary's River transit is placed in
4 the St. Lawrence River portion of our income.

5 Q It is only in that case that you
6 split the charge?

7 A Yes. That is the only time we
8 split the charge.

9 Q Will you do down to the first item
10 of expenses, and I read here, "Pilots' subsistence
11 and travel, reimburseable." Would you explain to us
12 what that is?

13 A Those are the charges for ex-
14 penses incurred by the pilots we are permitted to
15 charge directly to the vessel. That includes the cost
16 of travelling to that ship from the pilot's base and
17 the cost of returning the pilot to his base after he
18 completes the assignment.

19 Q Even though therefore it is en-
20 tered in "Expenses" it is not a true expense in the
21 sense that it is collectable back from the ship?

22 A That is right.

23 Q It is probably shown in revenue
24 when it is collected in the income reports higher on
25 the page?

26 A If you look under Account No. 41-10
27 you will find that subsistence and travel income on
28 this statement is \$10,432. That is the amount that
29 we have charged to the vessels for expenses incurred
30



1 by the pilots -- that is, legitimately allowed to be
2 charged to the ship. Under "Expenses" you will find
3 the actual amount paid out. There is a difference
4 between the amount of income or the amount that has
5 been charged to the vessel which is listed as income
6 and the amount which has been paid out which is
7 listed as Expenses, because there are at all times
8 source forms --

9 Q That are not completed or collected
10 on?

11 A That we have not yet received in
12 our office, but the pilotage assignment has been
13 completed.

14 Q You have an item "Gas and Oil,
15 Lease Cars and Auto Leases". I assume this is con-
16 nected with the cars operated by the Association for
17 the pilot services or pilots' use; is that correct?

18 A That is right. That involves the
19 area at the St. Mary's River where we are paid a
20 total fee of \$200 and all expenses surrounding that
21 move must be taken out of the \$200. That is a dif-
22 ferent handling than any of our other charges.

23 For example, out of that \$200 must
24 come the cost of the pilot boats. I believe I dis-
25 cussed this yesterday. All of the expenses of op-
26 erating that area down there must come out of the
27 \$200.

28 Q I understand you have four cars
29 under lease?
30



1 A We lease four cars for the district.
2
3 To explain our need, we may have four ships coming to
4 Detour within perhaps a 12-hour period or 24-hour
5 period -- the period is not too vital. When the man
6 who is the pilot completes the journey through the
7 St. Mary's River he must immediately be on a car and
8 drive back to the other end of the river in order to
9 be available for the ship. I believe part of my time
10 they used cabs, taxicabs, for this purpose and found
11 the cost so excessive that they leased cars and that
12 expense has been considerably less than it was when
13 the taxicabs were used for that purpose.

14 Q Now, we come to the next item
15 "Payroll Taxes". I take it that this is the income
16 tax deducted at the source on the pilots' income?

17 A Yes.

18 Q In the amount of \$29,869.55 ap-
19 pearing as the first item?

20 A Yes.

21 Q The same thing applies for "Payroll
22 Taxes Minnesota Unemployment Insurance"?

23 A That is a payment made to the
24 State of Minnesota to cover the unemployment in-
25 surance that we have.

26 MR. JACQUES: Of pilots?

27 THE WITNESS: Of pilots, yes.

28 MR. LALONDE: And employees?

29 MR. BRISSET: Q I do not think
30 so?



1 A No. I think you will find below
2 we have an item...Just a moment.

3 Q Those of the employees would be
4 entered, I assume, in the general administrative ex-
5 pense as employees' salaries and wages including in-
6 come tax deductions?

7 A They are charged to general admini-
8 strative expense, yes. They are not included in the
9 pilotage expenses. The pilotage expenses are direct
10 charges against pilotage as one single entity there.

11 Q Now, "Administrative Expenses
12 Office & General", you have an item "Insurance". I
13 understand that this represents the cost of insurance,
14 life, injury, health on the pilots; is that correct?

15 A Yes. That includes all types of
16 insurance that we carry in the Association for the
17 benefit of the pilots including health, accident,
18 life insurance, legal liability, fidelity bonds on
19 the office employees.
20
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1 Q But it does as you say include in-
2 insurance for the pilots, and my question is why this
3 is not entered as a pilotage expense rather than an
4 administrative expense?

5 A Primarily because this is the way
6 Washington has told us to keep our accounting records.

7 Q You told us it includes, this in-
8 surance includes legal liability of the pilot. Am I
9 right in understanding that it does include legal
10 liability of all pilots who might be involved in an
11 accident in respect to the damage caused to the ship
12 or other ships or shore installations?

13 A It would include that type of
14 legal liability.

15 Q In other words, the American pilots
16 do not have the benefit of the exemption of liability
17 of the Canadian pilots?

18 A We understand the Canadian Govern-
19 ment has its own insurance plan for their pilots.

20 MR. LALONDE: That is a good way
21 of answering it.

22 Q Have there been any instances that
23 you know of in your administration of an American
24 pilot being sued successfully for damage he might
25 have caused?

26 A Not since I have joined the
27 organisation.

28 Q In other words, --

29 A I don't know what happened prior
30



1 to that. I can't answer it for the period prior to
2 my coming.

3 Q It would seem that the shipowners
4 do not want to sue pilots?

5 A Or conversely it would seem --

6 Q Or they have had no accidents?

7 A Or they have had no accidents.

8 MR. LALONDE: Or they are not re-
9 sponsible for them.

10 THE CHAIRMAN: Before you go
11 further...

12 MR. BRISSET: I have no further
13 questions.

14 THE CHAIRMAN: That last question
15 about the policy, would that policy also apply to
16 Canadian pilots?

17 THE WITNESS: No, we don't attempt
18 to cover Canadian pilots.

19 THE CHAIRMAN: We will now adjourn
20 for ten minutes.

21 ---SHORT RECESS

22 THE SECRETARY: Mr. Jacques is on
23 the phone for a minute.

24 DIRECT EXAMINATION BY MR. LALONDE:

25 Q While we are waiting for Mr. Jacques,
26 Mr. Kuefner, I am referring you to an exhibit. I am
27 sorry I do not have the number of the exhibit; brief
28
29
30



1 No. 40 submitted by the Shipping Federation to this
2 Commission in connection with pilotage on the Great
3 Lakes. There is a statement at page 77 which reads
4 that the administration costs of District 3, for ex-
5 ample, have been as high as 30 percent.

6 Would you give us the gross figures,
7 the income and the administration costs comparatively
8 for the years we have available?

9 A I have 1962, 1963, and to date in
10 1964.

11 Q Yes?

12 A In 1962 the total pilotage income
13 was \$308,873.

14 Q Yes?

15 A The administrative expense for
16 that period was \$61,054.

17 Q Which would make approximately --

18 A Just about 20 percent. Not quite
19 20 percent.

20 Q Yes?

21 A In 1963 gross income for pilotage
22 \$296,532. Administrative expense for that year
23 \$59,841.

24 Q Yes?

25 A That is approximately 20 percent.
26 A very small fraction over 20 percent.

27 Q Yes?

28 A In 1964 as shown here on Exhibit
29 1381, our pilotage income this year is -- I must
30



1 deduct something here.

2 Q That is as at September 30, 1964?

3 A It is as of September 30, 1964.

4 Just under \$280,000.

5 Q Yes?

6 A Very close to that. Less than
7 \$1,000 under that. Our administrative expense is
8 \$41,531, which is considerably under 20 percent.

9 MR. LALONDE: Commissioner Renwick
10 will give you the percentage in a second, I am sure.

11 COMMISSIONER RENWICK: Sixteen plus.

12 MR. BRISSET: In all fairness, My
13 Lord, I must say that we probably were wrong in
14 mentioning 30 percent in our brief. The reason is
15 that we included in that percentage what is included
16 in a separate type of expense called pilotage expense,
17 the cost of the pilot boats and the cost of running
18 of the cars leased by the pilots, which, if they are
19 added from an accounting point of view--perhaps they
20 should not be; I am not prepared to say here --
21 would bring the total up.

22 BY MR. JACQUES: Q Just out of
23 curiosity can you tell us why Duluth was chosen as
24 the home base or the seat of the corporation?

25 A That is the centre -- excuse me,
26 am I interrupting?

27 Q No, go ahead.

28 A That is the centre of activity in
29 our district. The agents are located there. The
30



1 knowledge of movement of ships, expected ships, time
2 of arrival, departure, all that information is avail-
3 able in Duluth. It is not available in any other
4 area or part of our area.

5 Q You mentioned, or rather Captain
6 Rico mentioned that every year at the beginning of
7 the season the pilots chose their own operating area,
8 and you mentioned that there were six pilots stationed
9 at the Soo?

10 A Five American and one Canadian.

11 Q Is that correct?

12 A That is correct.

13 Q Would you mind telling us how many
14 pilots are stationed in the other operating area,
15 Duluth-Superior, Lakehead and trans-lake?

16 A Three pilots in Duluth-Superior,
17 one pilot at the Lakehead -- that is not a 24-hour a
18 day assignment, depending on the season. We find it
19 is not necessary. The balance of the pilots are what
20 we term trans-lake pilots. They service the ships
21 across the lakes from one area to another.

22 MR. BRISSET: Seven trans-lake.

23 Q How many pilots have you altogether?

24 A Yes. That would be seven. We had
25 16 pilots. Perhaps I should explain this man at Fort
26 William. It was our understanding at one point that
27 we should keep a Canadian pilot stationed at Fort
28 William. I don't know where that originated. We find
29 that it is an expensive thing to do. An unwarranted
30



1 expense based on traffic. As a result, we have not
2 attempted to keep a pilot at the Lakehead at all
3 times, but rather, we are filling the needs and re-
4 quirements of pilotage at the Lakehead through the
5 Duluth station.

6 THE CHAIRMAN: I think the Lakehead
7 was that because they had harbour pilots before and
8 they said it was necessary.

9 THE WITNESS: Last year we had a
10 man stationed there and there were long periods with-
11 out a move. I believe one of the Canadian pilots sat
12 there for 12 or 14 days -- something of that sort --
13 with no move of any kind, and it is for that reason
14 that we had difficulty in getting the average earnings
15 per man for the Canadian pilots up to that of the U.S.
16 pilots.

17 We started on that basis this year,
18 which again brought us behind. Now, we have stationed
19 an additional man on the Soo River in order to in-
20 crease the earnings for the Canadian pilots, in order
21 to equalize them.

22 THE CHAIRMAN: This is one of the
23 drawbacks of paying on the jobs done and not on time
24 available basis.

25 THE WITNESS: Yes, it is.

26 MR. LALONDE: In order to make your
27 point quite clear on the number of men, you have six
28 men on the River?

29 THE WITNESS: Yes.
30



1 MR. LALONDE: Five Americans, one
2 Canadian?

3 THE WITNESS: Yes.

4 MR. LALONDE: And three men in
5 Duluth?

6 THE WITNESS: Yes.

7 MR. LALONDE: And one man at Fort
8 William?

9 THE WITNESS: That man at Fort
10 William is not stationed there permanently.

11 MR. LALONDE: That would make ten
12 men and leave six for trans-lake work?

13 THE WITNESS: Yes.

14 BY MR. JACQUES: Q And the Canadians
15 rotate from one area to the other?

16 A That is right. They participate in
17 all areas of pilotage, Fort William, trans-lake, Soo
18 River, and Duluth when they are in the port of Duluth.

19 Q Now, sir, it has been mentioned
20 several times that the pilots were the employees of
21 the Lake Superior Pilots' Association Inc. Is there
22 any contract of employment between the company and
23 each individual pilot? What is the basis for that
24 statement?

25 A It is comparable to any man who is
26 employed by a corporation who earns money and who
27 assists in producing income and is paid based upon
28 his earnings. This could be likened to a salesman
29 who works on a commission basis. You can call him an
30



1 employee. There is not a contractual arrangement or
2 guarantee of a salary of so much per year, but as I
3 say, it can be likened very much to a man on commission
4 where he is paid what he earns but he is considered an
5 employee of the corporation.

6 Q Now, we were also told and there
7 was filed a document being a contract between the
8 Association, the incorporated body, and local 444 of
9 I.L.A. What is the purpose behind this set-up?

10 A That perhaps should be explained by
11 the pilots. However, it is the same arrangement that
12 many, many corporations have with labour unions.

13 Q I realize that, but to me it seems
14 rather peculiar because the corporation or the company
15 is formed only of pilots; pilots elect their own
16 directors, and local 444 is formed only of the same
17 pilots who are shareholders of the company. I just
18 wondered whether there was some legal nicety behind
19 all that.

20 MR. LALONDE: I think there could
21 be one in the sense that -- the question is more legal
22 than factual I suppose, but the by-laws of the corpo-
23 ration provide that shares could be sold outside of
24 pilots in proportion of not more than 25 percent I
25 believe. Is that correct?

26 THE WITNESS: Something to that
27 effect. I don't recall the exact number.

28 MR. LALONDE: And although none of
29 the shares have been issued, there remains the possibility
30



1 that the membership of the corporation, in the sense
2 of the shareholders of the corporation might not be
3 the same in practise as the "employees" who would be
4 the pilots, which would allow for a legal difference
5 between the two bodies I suppose.

6 Q But at the moment the shareholders
7 are only the pilots, the registered pilots? Is that
8 correct?

9 A Well, that needs to be explained.
10 I can't say yes or no. We have three retired registered
11 pilots. One who has a temporary license, and the
12 other two have retired. Their stock has not at this
13 point been redeemed but will be in December or some-
14 time prior to the year's end. It has not yet been
15 redeemed, so that the answer can be yes if you will
16 include those two retired pilots.

17 Q But I mean there is no, let us say,
18 outsiders?

19 A At this point, no.

20 Q There is not?

21 A No.

22 THE CHAIRMAN: This is a basic
23 difference with the Canadian Corporation of pilots
24 which is a non-profit organisation. The Americans
25 are a profitable organisation.

26 Q Is there any restriction on the
27 transfer of the stock? Could a pilot, for instance,
28 sell me his share in the Association or sell it to
29 anyone for that matter?
30



1 A I don't recall all of the areas in
2 our articles of incorporation or by-laws. I do believe
3 it states someplace that before doing so they must
4 give the corporation the opportunity to buy that
5 stock.

6 Q That would be one restriction on
7 the transfer of the stock?

8 A Yes.

9 Q Now, is all the stock divided
10 equally between the pilots? I believe Captain Rico
11 has a few more shares than the others, but apart from
12 that example, apart from that particular case, is the
13 stock divided equally among the pilots?

14 A We have two classes of stock.
15 Class A, which is voting stock, and each pilot has
16 one share of the Class A voting stock, so each pilot
17 has an equal voice. Of the Class B or non-voting
18 shares, there is a difference in the number of shares
19 that the original pilots held and the pilots who have
20 been admitted to the corporation since that time.

21 Q Would there be a dividend paid on
22 the Class B shares?

23 A We have never declared a dividend
24 in the corporation. There has been no dividend de-
25 clared to any share or any class of share. These are
26 both common stocks, Class A and Class B, but no
27 dividends have been paid.

28 Q Would the Class B stock provide
29 for a dividend? Is it preferential in any way?
30



1 A I would have to investigate before
2 being able to answer. Since we have not, and at this
3 point do not intend to declare dividends, I have not
4 found it necessary to go into that.

5 Q Would it be too inquisitive to ask
6 you how many voting shares Captain Rico holds?

7 A Captain Rico holds one voting share,
8 Class A stock, and so does every other pilot member of
9 the Association.

10 Q I thought he said he held more than
11 the others.

12 A He has more shares of stock, but
13 he is only one share of Class A or voting stock.

14 Q When you do your billings, in whose
15 name is the bill made up? Is the bill sent under the
16 name of Lake Superior Pilots' Association Inc. or
17 under the name of the pilot?

18 A It is sent under the name of the
19 Lake Superior Pilots' Association Inc. We list on
20 our bill --

21 Q What is that?

22 A We list on our invoice the name
23 of the pilot who handled the assignment. The bill is
24 in the name of the Lake Superior Pilots' Association.

25 THE CHAIRMAN: That means that the
26 dues belong to the Association, to the Corporation?

27 THE WITNESS: Yes.

28 THE CHAIRMAN: If you have to sue,
29 it would be the Corporation that would sue and not the
30



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1 individual pilot?

2 THE WITNESS: That is right.

3 MR. LALONDE: The American Act pro-
4 vides that the administrator is the one who decides
5 on the allocation of a pool to an association.

6 THE CHAIRMAN: That would be the
7 administrator suing?

8 MR. LALONDE: No, no, the admini-
9 strator decides who will be the one who will have the
10 right to a pool, and that is the one who is responsible
11 for collecting of dues and all that. That is in the
12 public law 86-555, Section 4, Paragraph e in particular.
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1 Q Now, with respect to the stock,
2 from what you say I gather that it is redeemable by
3 the Association; that when a pilot retires he turns
4 over his stock to the Association and he is reimbursed
5 by whatever the amount of the stock is; is that correct?
6

7 A Yes, that would be in essence true.
8 When a pilot leaves, the organisation makes an arrange-
9 ment with the pilot to re-purchase his shares of
10 stock.

11 We did have -- perhaps we might
12 have this little explanation -- a member, a man who
13 was President initially of the Association, Mr. Svensson.
14 This is just as an example. He was not a pilot and
15 he held shares of stock. From memory -- and I hope
16 it is correct, but it may not be -- he received a
17 certain number of shares and paid \$150 for them...
18 perhaps I should get the accurate figure there. He
19 had stock of 1 Class A share of voting stock and 6
20 shares of B stock which is non-voting, and for those
21 7 shares of stock he paid \$150. He has returned
22 those shares of stock to the Corporation and they
23 have paid him his original purchase price. / I take
24 it then that the stock has a par value?

25 A It is no-par-value stock.

26 Q It is no-par-value stock?

27 A Yes.

28 Q And what is the value fixed by
29 the Board of Directors?

30 A There is no fixed value.



1 Q Have you issued stock recently --
2 voting stock?

3 A Do I have shares?

4 Q No; have you issued voting stock
5 recently?

6 A No, we have not.

7 Q The last time you issued voting
8 stock what was the value fixed by the Board of
9 Directors, do you recall?

10 A It too is common stock that has no
11 value -- it has no par value, and it has no fixed
12 value.

13 Q Yes; what about when you sell it
14 to the pilot? How much does he pay?

15 A The last purchase of stock was for
16 a total of 3 shares -- 1 share of Class A stock and
17 2 shares of Class B stock, and for those three shares
18 the pilot paid \$900.

19 Q And who sets the value of those
20 3 shares at \$900?

21 A The shareholders themselves
22 determined that that was the value they would place
23 on those shares of stock.

24 Q At that moment?

25 A At that time, yes.

26 Q Has the value fluctuated...

27 A No.

28 Q ...since the creation of the
29 Corporation?
30



1 A No. There is no profit carried
2 over in the Association. All earnings are paid to
3 the pilots at the end of the year, or shortly after
4 the end of the year.

5 Q All right. You have just said...

6 MR. LALONDE: Is it correct that
7 all pilots paid \$900 for the shares?

8 THE WITNESS: All of the pilots
9 that have come in since the initial group have paid
10 \$900 for the 3 shares of stock.

11 MR. JACQUES: Q And the initial
12 group paid how much?

13 A I don't have those records here
14 with me.

15 Q At any rate, since the Corporation
16 has been formed those who have joined have paid \$900
17 for three shares?

18 A That is right.

19 Q One voting and 2 non-voting?

20 A Yes.

21 Q Do you consider that the Canadian
22 pilots are in any way your employees?

23 A No, we do not.

24 Q So they are not considered your
25 employees?

26 A No.

27 Q I don't know if it has been dis-
28 cussed, but do you provide pension benefit for your
29 pilots?
30



1 A As an Association we have the op-
2 portunity to put aside funds in a profit-sharing re-
3 tirement fund.

4 Q Have you such a fund in existence?

5 A Yes; an amount of \$3,000 was put
6 in, I believe, at the end of 1962.

7 Q Would these figures appear on your
8 inter-association settlement statement?

9 A No.

10 Q They would not?

11 A No; that is a matter for the
12 American pilots only, as a result of the operations
13 of the Corporation, and once that fund has been
14 determined -- once the pilots decide to set aside
15 a certain amount, as they did at the end of 1962 --
16 a total of \$3,000 -- this amount is paid to the group
17 of pilots and the Corporation no longer controls that
18 money. The pilots themselves do. That is according
19 to the United States regulation.

20 Q So, with respect to these funds
21 and also the money which is paid by the pilot for
22 his stock, that would not appear at all on the docu-
23 ment forwarded to the Department of Transport via the
24 Great Lakes Pilotage Administration?

25 A No, it would not appear in our
26 inter-association settlement. We do not forward to
27 Washington a copy of the financial statements to be
28 sent to the Department of Transport. They may send
29 them. We don't know.
30



1 Q District No. 2 dispatching
2 facilities are in fact used by District No. 3 pilots;
3 is that correct?

4 A That is correct.

5 Q Is there any charge made by District
6 2 to District 3 for that service?

7 A We have an arrangement whereby
8 the District 3 dispatcher at Detour also dispatches
9 District 2 pilots; so that between Port Huron and
10 Detour there is no charge. For the dispatch in
11 Chicago there is an expense and that is paid by
12 District 2 and District 3 in proportion to the amount
13 of dispatch for each of the districts.

14 Q Would those figures appear on the
15 inter-association settlement?

16 A I believe they would since the
17 Canadian pilots also participate in our dispatch in
18 those two areas.

19 Q You might correct me if I am wrong.
20 You said that you were the agent of the association?

21 A I beg your pardon?

22 Q You said you were the agent of
23 the Association?

24 A I am the agent?

25 Q Yes; the business agent of the
26 association?

27 A Excuse me; the business agent, or
28 administrator, or business manager.

29 Q Of the Association?
30



1 A Yes.

2 Q I was told that it was frequent in
3 the United States of America that the administrator
4 was the agent of each and every pilot individually.
5 That would not be your position?

6 A In the normal course of a set-up
7 in the United States the stockholders elect the Board
8 of Directors; the Board of Directors appoints the
9 officers of the Corporation. I presume that if you
10 wished to go through some of the legal areas that I
11 don't understand, you would say that any officer of
12 any Corporation is put there through the efforts of
13 the individual stockholder.

14 Q I must confess I am not very well
15 versed on American law, but I had been instructed...

16 MR. LALONDE: What about Canadian
17 law?

18 MR. JACQUES: I am quite well
19 versed in Canadian law, as my learned friends well
20 know!

21 Q To change the subject, I asked a
22 question of Captain Rico and I was referred to you
23 by the answer. It related to recommendation No. 3 --
24 increased authority at the local level -- at page 13
25 -- and I wanted to know what you understood by "local
26 level". Is it the local level of the Association
27 itself, or that of each and every one of your dis-
28 patchers individually?

29 A If you will wait 'til I see this
30



1 section and then if you will permit me to ask a
2 question -- I would like to find out what it says
3 here. You are referring, I believe, to page 13 of
4 the brief?

5 Q Yes -- "increased authority at
6 local level." Do you mean you want the authority of
7 the Association to be increased and not the authority,
8 say, of the dispatcher read all over the Lakes area?

9 A Yes, I believe that is a fair
10 statement. We wish to be able to give a more effective
11 and a more efficient pilotage service.

12 Q In what particular sphere would you
13 wish the authority to be increased?

14 A Let me give you an example of
15 what, perhaps, helps to create this paragraph, or
16 this section. In 1963, towards the end of this season,
17 and evidently originating from the Department of
18 Transport, there was a request that we place two
19 Canadian pilots -- I am not sure whether it was a
20 request for two or three -- I believe it was two --
21 Canadian pilots in the St. Mary's River on a full-
22 time basis, with the understanding that they were not
23 to be taken out of the river at any time, regardless
24 of our working rules and regulations, and that we do
25 that in order to build higher earnings of the Canadian
26 pilots -- I presume because we were one-half of 1
27 percent over this was an attempt to recover this half
28 of 1 percent. We felt that to do this would so com-
29 pletely disrupt our dispatch that we couldn't accede
30



1 to that request, and, as a result we feel that it is
2 better to have left government interference in an
3 area that we think can be handled through discussion
4 between units than there is now.

5 Do I make myself clear on that?

6 Q Everybody has mentioned examples,
7 has pointed out difficulties which may arise from
8 time to time, but nobody has pointed out the fears
9 where you want the authority to be increased. Your
10 example would amount to saying that you don't want
11 the Canadian government to give you any direction
12 whatsoever ...?

13 MR. LALONDE: That the dispatching
14 should be decided locally.

15 THE WITNESS: We feel that all
16 matters of dispatching should be decided within the
17 dispatching unit of the Association of the district.
18 Interference with that dispatching creates difficulties
19 that can only be overcome by higher transportation
20 costs, less effective pilots, because the pilots are
21 travelling from one point to another rather than
22 piloting a ship, and delays for the ships, and more
23 requirements for waivers. In other words, it just
24 messes it up good!

25 Q The rules with respect to obtaining
26 waivers, which you explained -- they are the rules
27 applicable now since the Detroit Hearing; is that
28 correct?

29 A Yes.
30



1 Q That is, the new rules?

2 A Yes.

3 Q Prior to that there were no written
4 rules?

5 A Yes, we had a specific set of regu-
6 lations that we had followed. I don't know if it was
7 at the instance of the Department of Transport -- I
8 presume not; or whether it was Washington, or the
9 Coast Guard; but there were a series of seven factors
10 -- seven bits of information that we must furnish,
11 such as the name of the ship, the nationality of the
12 ship...

13 Q But prior to the new rules which
14 were made the subject of the hearing at Detroit I am
15 advised that there were no written rules and that the
16 necessity of written procedure, or procedure under
17 your rules and regulations, came from a casualty in-
18 volving a ship which had proceeded without a waiver,
19 I believe, and without a pilot, and which ran aground;
20 and the Coast Guard authorities held an enquiry and
21 stated that since there were no procedures to obtain
22 a waiver, the master was not at fault for not obtaining
23 one?

24 A That must have happened well ahead
25 of the hearing in Detroit, because the procedure
26 we now follow is the same procedure that has been in
27 effect since I have been with the Association, which
28 would be since February of 1963.

29 Q Now, is there a set period of time
30



1 which a vessel must wait before obtaining a waiver?

2 A If it is possible to furnish a
3 pilot within a 6-hour period.

4 Q Then, she must wait?

5 A Then, she is required to wait for
6 the pilot. If we cannot furnish a pilot within a
7 6-hour period then it is the subject for a possible
8 waiver.

9 Q Now, in your experience have you
10 ever had occasion to tell a ship that a pilot would
11 be available within 6 hours and request her to wait?

12 A We have had ships -- I don't believe
13 we have had any of them wait 6 hours, but there have
14 been instances where they have had to wait an hour or
15 two hours for a pilot.

16 Q Now, you may not answer this question
17 if you wish, but instead of having a joint operation
18 on the Great Lakes -- that is Canadian and American
19 over the same area -- have you given some thought to
20 having definite spheres of influence, say, in one
21 area of the Great Lakes where the pilots would be
22 administered solely by the Americans and having an-
23 other area which would be administered solely by the
24 Canadians, whether the pilots are Canadian or American?

25 A In my experience during the one
26 full season and most of this season I have yet to
27 encounter any problem of difficulty with any one of
28 the three Canadian pilots we have in our district; as
29 a result, I have absolutely no reason to feel that we
30



1 shouldn't continue as we are now.

2 Q That is what I said. I was not
3 referring to the nationality of the pilots but rather
4 to this dual authority over the district -- the authority
5 of your administration and that of the Department?

6 A I am not sure I follow you. I
7 have given thought to many different appendages that
8 might be developed, but I have not been able to come
9 up with something better than the regulations or the
10 law that was passed.

11 MR. JACQUES: Before I sit down I
12 should like to have an annexed to Exhibit 1006 a re-
13 vised list of pilots in the Great Lakes, both American
14 and Canadian. This is up to date. It is dated
15 October 14, 1964.

16
17 ----Attached to EXHIBIT NO. 1006: Revised List of
18 Pilots, both
19 American and
20 Canadian, in the
Great Lakes, dated
October 14, 1964.

21 MR. JACQUES: Q One question.
22 I wonder if you could answer this: What is the take-
23 home pay of the American pilots in your district?

24 A It of course varies from one year
25 to the next.

26 Q Well, let us say last year?

27 A In 1963 I believe it averaged,
28 approximately -- and I don't know what the average
29 figure is -- approximately for a full-time pilot,
30 \$11,000.



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TORONTO, ONTARIO

Kuefner, Cr Ex
(Jacques)

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Q \$11,000?

A This year it will average higher
than that.

Q That is with all expenses deducted?

A No. In 1963 the individual pilots
had an expense of their own which they had to take out
of that.

-

-

-



1
2 That expense varies depending upon
3 the actual assignments given to the pilot.

4 As an example of higher expenses
5 the pilots who are stationed at Sault Ste Marie must
6 find or have a home or an area of location there.
7 They must pay all their room and board throughout the
8 entire season, whereas the trans-lake pilot has, of
9 course, his room and meals paid when he is on a ship.
10 So as a result of that the trans-lake pilot's actual
11 expenses are lower than the river man, the St. Mary's
12 River man.

13 However, the trans-lake man too
14 may find that he is in Duluth sitting there for two
15 or three days without an assignment Fortunately,
16 that has existed very rarely this year. We have been
17 extremely busy. But if he does find that he sits
18 there, say, at Port Huron or Chicago or Fort William,
19 if he is waiting between ships he must pay his own
20 meals and lodging and any other personal expenses
21 that he has. What that expense amounts to per man I
22 do not know. I only know each man has expenses and
23 it is several hundreds of dollars in the course of a
24 season.

25 Q This figure of \$11,000, that would
26 be before or after deducting income tax?

27 A That is before deducting income
28 tax. That is his gross income and it is before de-
29 ducting these expenses we were just speaking of.

30 Q I see; so this is the salary of



1 the pilot or his commission as it were?

2 A Commission, net income, whatever you
3 wish to call it.

4 Q Thank you.

5 A In 1964 unfortunately it will be
6 higher.

7 Q With respect to your policy of in-
8 surance, does it cover liability of the Corporation
9 for the negligence of the pilots?

10 A Well, first let me apologize. Ac-
11 cording to your information I have overlooked the
12 fact that there is a \$45 charge that was placed
13 against the Canadian Government in our inter-association
14 statement. I thought that was purely the cost of the
15 fidelity bond on myself and the other two people who
16 are in the office. We carry a policy covering liability
17 of the association and since a pilot is a part of the
18 organisation if there is negligence or a claim against
19 the Association we carry a policy to cover that.

20 Q And what is the amount of the
21 coverage?

22 A \$500,000 with \$500 deductible.

23 Q For each accident?

24 A For each accident.

25 MR. JACQUES: Thank you.

26
27 FURTHER DIRECT EXAMINATION BY MR. LALONDE:

28 Q The take-home pay you mentioned
29 before did not include however fringe benefits like
30



1 the insurance you referred to?

2 A No, that does not include that.
3 There is health insurance.

4 Q Do you know whether the American
5 pilots in District No. 2 last year made more than the
6 District 3 pilots or less as net?

7 A First I do not know. I understand
8 their net was greater than District 3. I do not and
9 cannot verify that.

10 Q On the basis of the figures as
11 they are going on this year what do you expect will
12 be the net this year in District No. 3?

13 A That would be purely a guess. I
14 do not know what it will be.

15 Q An upward trend?

16 A I would assume that the gross in-
17 come will be in the neighbourhood of thirteen or
18 fourteen thousand

19 Q Gross as defined -- that is, after
20 deducting administrative expenses?

21 A That is right.

22 Q You are general manager of the
23 Association. Are there several meetings of the Board
24 of Directors during the year?

25 A Yes.

26 Q During the season itself?

27 A Very few during the season, al-
28 though it is necessary on occasion to have a meeting
29 of the Board when a specific problem or problems
30



1 arise.

2 Q Have you ever had interference by
3 any of the Directors in the direct operation of pilot-
4 age -- that is, dispatching and things like that --
5 or are you left on your own in the sense that it is
6 your responsibility and you are dealing with it ex-
7 clusively?

8 A Dispatching is my responsibility.
9 The regulations or what we call our working rules
10 state that if a pilot objects or feels that our in-
11 structions are wrong and he is harmed he has the right
12 to present his case before the Board of Directors.
13 But in the meantime he must follow the instructions
14 of the dispatcher.

15 Q I see.

16 A We have not had interference --
17 although again we have had men questioned naturally
18 -- but we have not had interference on any serious
19 problem regarding dispatch.

20 MR. LALONDE: Thank you.

21 I have no further questions, My
22 Lord, except that I would like to recall Captain Rico
23 for three or four questions, if I may. I know it is
24 already five o'clock but these gentlemen would like to
25 leave to-morrow.

26 THE CHAIRMAN: That is all right
27 Captain Rico?

28
29 ---WITNESS WITHDREW
30



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CAPTAIN ANTHONY RICO, recalled
sworn.

DIRECT EXAMINATION BY MR. LALONDE:

Q Captain Rico, could you tell us how much you paid for your shares at the origin of the Corporation?

A Well, initially in 1959 -- I might say that I am the last original stockholder -- beginning then we bought up ten shares for \$150 at that time. Then, I believe in 1960 -- for the winter of 1961 we got more money so we issued more shares. I believe it was at \$250 or \$300; I do not remember exactly. So I have 12 or 13 shares -- I am not even sure of that -- and subsequently everyone...If you wish I could clarify this one point.

Q. Yes?

A When we initially started this we each put in \$150. I think there were ten of us or something like that. Since that time some of the pilots have died; some lost their lives in piloting and others have retired. So I am the last of that original group. But with the advent of the Great Lakes Pilotage Act we were forced to take in more pilots now because our district was bigger.

We had worked on this by ourselves with no assistance from anyone. We built this thing up in 1959 and 1960. It cost us a considerable amount of money for legal fees and travelling and things of this nature. So we thought when pilots come into the



1 organisation for having the convenience of this
2 Corporation set up for them already it is only fair
3 that they should pay some price for it.

4 Q Yes?

5 A So they started off by issuing
6 3 shares of stock and at that time it seemed \$900 was
7 equitable, going back to the books and looking the
8 books over. So this is a figure everybody agreed to,
9 including the people buying the stock. So it has been
10 a practice to continue this.

11 Q How many voting shares is that?

12 A I have only 1 voting share, but I
13 still retain the others. Probably for the sake of
14 continuity or so that it does not appear that I have
15 more stock than someone else because I am reaping the
16 harvest on somebody else's back, when I go back we
17 will probably...It has never been brought up before
18 and it has been forgotten. It is rather unusual.

19 Q Don't worry. I know a lot of
20 corporations who are supposed to make money and who
21 operate on that basis.

22 A But this can be rectified. As soon
23 as I can get back I will get 3 shares like everyone
24 else.

25 MR. JACQUES: I am sorry, I did
26 not wish to imply that you were doing anything wrong,
27 except I was under the impression that you held more
28 voting stock than your colleagues.

29 A I do not.
30



1 MR. JACQUES: I just wanted to
2 know how many voting shares you had.

3 THE WITNESS: Oh, I see. Yes, I
4 have ~~one~~ like everyone else.

5 MR. LALONDE: Q I would like you
6 to look at Brief No. 40, which is the brief of the
7 Shipping Federation. It is first a recommendation
8 about which I would like to ask you whether you have
9 any comment to make in that respect, and that is
10 recommendation 4(d). It reads as follows, that in
11 the twin ports of Port Arthur and Fort William the
12 Harbour Commission for the Lakehead take over control
13 of pilotage and jurisdiction over the pilots operating
14 within its harbours. Do you have any comment to make
15 on this recommendation?

16 A Yes. There is one specific comment
17 I can make before I answer that question. It might
18 help you answer the question you asked Mr. Kuefner.
19 We asked that we be allowed to communicate and make
20 decisions of some minor nature on our own at a local
21 level.

22 When I pick up a brief like that
23 and I read some of the portions of that brief that I
24 do not agree with I cannot see why the Association
25 cannot take a stand and why Captain Matheson -- and
26 let us talk this over; maybe he would not have even
27 put that in the brief if we had a chance to talk it
28 over before they submitted that brief.

29 In the first place the area of our
30



1 assignment is defined as Lakes Superior, Huron and
2 Page Line
3 Michigan and we do not propose that any portion or any
4 416 part of this district or this area be taken away from
5 417 us. We have Canadian pilots "in our pool. Would you
6 take this port away from a Canadian pilot?
7 VOLUME IV

8 Q No.

9 Page Line
10 A No.

11 Q The proposal here is that the
12 Canadian pilots would operate there exclusively, I
13 presume.

14 A Why not let them operate the way
15 they are now in our area? Don't let us exchange at
16 all.

17 Q That is your comment on this
18 recommendation?

19 A Yes, sir.

20 Q I am drawing your attention to an
21 example given at page 78 of particular dispatching
22 problems and I refer you to example No. 1 which reads
23 as follows:

24 "District No. 3 pilots in
25 Duluth find that there is a lull in traffic
26 and many pilots are ashore awaiting employment.
27 In the hope of picking up some work, two
28 pilots are dispatched to Chicago. They no
29 sooner arrive in Chicago than there is an
30 urgent appeal in Port Huron for additional
pilots. Or worse yet, these pilots, after
sitting around in Port Huron for several days,



1 on 'spec' return to Duluth, and no sooner
2 arrive there than they are required in
3 Port Huron ."

4 In all fairness this is given as
5 an example. It is not stated these are specific in-
6 stances which have occurred. But will you tell me
7 whether to your knowledge such instances still occur
8 or do occur?

9 A Here again it is an example of be-
10 ing able to talk this over at a local level. Since
11 this brief has been written Captain Matheson has been
12 in our office in Duluth and has had an opportunity to
13 see how we keep tabs on our pilots. We do not lose
14 our pilots any more. We do not plan on having any of
15 our pilots sitting around. We have tightened our com-
16 munication system up to the point now that when Port
17 Huron say, calls us for a pilot and we have an extra
18 pilot or two in Duluth, we can transfer to any point
19 they wish.

20 We immediately put on the teletype
21 through this office the man's name, the time he leaves
22 Duluth, by what means of travel -- is it train or plane
23 or bus. If it is a plane, we say the flight number --
24 North Central Airways Flight No. such-and-such, due
25 to be in Chicago at such-and-such a time. American
26 Airlines out of Chicago Flight No. such-and-such
27 leaving Detroit at such-and-such a time. Will take bus
28 from Detroit to Port Huron. We have not lost that
29 pilot a minute of the way down.
30



Rico, Dr Ex
(Lalonde)

20,199

1 If Port Huron in the meantime finds
2 they have a further need not in Port Huron immediately
3 but in Chicago, all they have to do is pick up the
4 telegram and call Chicago and they call the airport
5 that a pilot will be on that plane and will be there
6 at such-and-such a time. This is being done now. We
7 do not like to have our pilots unproductive.

8 MR. LALONDE: I have no further
9 questions to ask you, Captain Rico. Do you have any-
10 thing you want to add? I know you will be going
11 pretty far from here and if you have anything to add
12 you may do so.

13 THE WITNESS: I would like to bring
14 up one subject if I may be permitted to do so. It
15 irritates me a little bit. It is about the Lake
16 Michigan area and the Chicago area. This is part of
17 our district also. We share it or we co-operate with
18 District 2 in this area. It seems that if there have
19 been any criticisms most of them start in these two
20 lakes, both Huron and Michigan. We are put in a unique
21 position. We are supposed to co-operate with District
22 2 over these two lakes but the United States Government
23 through Mr. Meschter has given Chicago District 2
24 to operate. So we have a sort of a hands-off policy
25 on how they run their Chicago office. Criticisms we
26 can make but if they do not intend to do anything
27 about it there is nothing we can do.

28 So if you find that there may be
29 some criticisms in this area you will have to direct
30



1 them at District 2 and not at us because we cannot
2 accept the responsibility of running this office.

3 Incidentally, this office is being
4 run by the Great Lakes Towing Company. We try to
5 eliminate in our district conflicts of interests between
6 people who are in the pilot business and agent business
7 and custom house business. We feel that the pilot
8 business should stand on its own. It should not be
9 run as a sideline or a hobby or just a second business
10 for someone. It should stand on its own merit, and I
11 think it deserves a lot of credit for trying to do a
12 good job -- I mean, the Associations.

13 I have no further comment.

14 THE CHAIRMAN: Have you any further
15 questions, Mr. Brisset?

16 MR. BRISSET: My Lord, the witness
17 was to file, if I remember well, a list of instances
18 where pilots' services were rendered in Chicago by
19 other than registered pilots.

20 (To the witness): I do not know
21 if you have that.

22 THE WITNESS: I hope I made myself
23 understood that these specific instances did not
24 happen to me. They were brought to me by our pilots.
25 I said I would give you the instances from our pilots,
26 because they tell me.

27 THE CHAIRMAN: That will be provided?

28 THE WITNESS: Yes, sir.

29 THE CHAIRMAN: You have also a copy
30



1 of the charter that we requested?

2 THE WITNESS: Yes, sir.

3 THE CHAIRMAN: Are there any
4 further questions?

5 I wish to thank you very much,
6 Captain Rico and Mr. Kuefner for having come here and
7 having given us some evidence with regard to the
8 management angle of District No. 3 that we did not
9 have. We are very grateful for that. We also want
10 to thank you very much for having come despite the
11 strain and the trouble that it meant for you, especially
12 after your recent accident. We appreciate that very
13 much.

14 THE WITNESS: Thank you very much.

15 MR. LALONDE: My Lord, if I may just
16 say a word and change hats now, I would like also on
17 behalf of my clients -- this time the St. Lawrence
18 River and the Canadian Great Lakes pilots -- to publicly
19 thank the American pilots of District 3 who have taken
20 the trouble of coming over here. They had the op-
21 portunity of giving us a lot of information but at the
22 same time as far as the Canadian pilots are concerned
23 they have made representations before this Commission
24 to the effect that it is possible to administer
25 locally, that pilots can do a good job of running
26 pilotage and I think what we have heard from these
27 two witnesses is pretty telling evidence.

28 THE CHAIRMAN: Thank you. We will
29 now adjourn until to-morrow morning at ten o'clock.

30 ---WHEREUPON THE HEARING ADJOURNED UNTIL 21st October.

ROYAL COMMISSION

ON

PILOTAGE

HEARINGS

HELD AT

OTTAWA

VOLUME No.:

153

DATE:

Oct. 21, 1964

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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held
in the Exchequer Court Building,
Ottawa, Ontario, on Wednesday,
October 21st, 1964.

COMMISSION:

The Honourable Mr. Justice Bernier	Chairman
Mr. Robert K. Smith	Member
Mr. Harold A. Renwick	Member
Mr. Gilbert Nadeau	Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT

Mr. J. Brisset, Q.C.	for the Shipping Federation of Canada
Mr. Marc Lalonde	for the Federation of St. Lawrence River pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of Montreal Harbour Pilots; Corpora- tion of the Mid-St. Lawrence Pilots; Corpora- tion of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. L. Langlois	for the Canadian Merchant Service Guild

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Ottawa, Ontario,
Wednesday,
October 21, 1964.

---On commencing at 10.00 a.m.

MR. LANGLOIS: My lord, before we resume the evidence in connection with the brief submitted by the Canadian Merchant Service Guild I wish to make two remarks in connection with something which took place yesterday. Due mostly to the condition in which I was yesterday, which has improved a bit but not to what I would have liked it to be, I forgot when I was asked by Mr. Jacques, I think, the reasons for the difference between the dates mentioned in the brief in connection with this St. John's, Newfoundland, meeting of February and the date shown in the report of the National Pilots' Committee for the same year. I wish to say that the brief mentioned that this meeting was held from the 6th to the 9th of February while the National Pilots' Committee mentioned February 17th to 20th. I said that there was a misprint and I think I omitted to say where the misprint was. The misprint is in the brief; not in the report, so the date mentioned in the report is the correct one.

Now, in connection with this same report I wish to draw the attention of the Commission to the fact that this is not a verbatim report, and I myself discovered that there are some misinterpretations to say the least of what took place in certain respects. I filed this report just to indicate



1
2 that in fact the brief was discussed at that meeting
3 and to show to the Commission the procedure which was
4 followed.

5 THE CHAIRMAN: Thank you.

6 MR. LANGLOIS: My next witness, my
7 lord, will be Captain Collins in connection with coastal
8 pilotage.

9
10 CAPTAIN M. COLLINS, sworn

11 DIRECT EXAMINATION BY MR. LANGLOIS:

12 Q. Captain Collins, would you please
13 state your qualifications as a mariner, seaman?

14 A. I hold Canadian master's foreign-
15 going certificate and pilot's certificate for the
16 Port of St. John's, Newfoundland.

17 Q. How long have you been a pilot?

18 A. Since 1960.

19 Q. What is your position in the organiza-
20 tion of Canadian Merchant Service Guild?

21 A. I am Vice-Chairman for the East Coast,
22 National Pilots' Committee.

23 Q. Are you also a member of the local
24 pilots' committee for the District of St. John's, New-
25 foundland?

26 A. Yes, I am. I am the secretary.

27 Q. Now, I refer you to the chapter in
28 the brief entitled Coastal Pilotage, on pages 12, 13 and
29 14 and 15 of the brief, paragraphs 26 to 33 inclusive.
30 Would you care to comment on the contents of these



1
2 paragraphs?

3
4 I understand, my lord, as your
5 lordship will recall, in June there was a report on
6 Coastal Pilotage filed by Captain Girouard, which,
7 of course bore his signature. The contents of these
8 paragraphs follow very closely this report, and since
9 there is already evidence to that effect in the record,
10 I would just ask Captain Collins to add if he has any-
11 thing to add to what is contained in the brief.

12 THE CHAIRMAN: We had some evidence
13 when we were in Newfoundland.

14 MR. LANGLOIS: Yes.

15 THE CHAIRMAN: In May.

16 MR. LANGLOIS: Yes.

17 Q. Do you have anything to add, Captain
18 Collins, to what is in the brief in this respect?

19 A. No, just what is in the brief. I
20 think we have covered it fully, as far as we can go in
21 the brief. Take the brief as is. I have nothing to
22 add on it.

23 Q. Mention is made in these paragraphs
24 that you have had so far a record of no accidents in
25 connection with coastal pilotage, and that you have
26 received letters of commendation. Would you care to
27 say if these letters of commendation were coming from
28 ocean ships or coastal ships or what they were?

29 A. Well, I think most of them came from
30 coastal ships. I can't recall just one from an ocean
ship, but we have several, and I think you, Mr. Langlois,
have copies of these -- have forwarded copies covering



these.

MR. LANGLOIS: If my memory serves me well I think copies of these letters were also filed, letters of commendation from users of coastal pilotage service in Newfoundland. If not, my lord, I will check, and with your leave I will file these letters later on.

THE CHAIRMAN: That is all right.

MR. LANGLOIS:

Q. You say they were mostly from coastal ships?

A. Yes.

Q. What type of ships were they?

A. Coastal tankers. One from a tugboat. I think most of them came from coastal tankers for the reason that most of our coastal piloting is done with the coastal tankers although we do pilot ships for the A.N.P. Company down to ---

Q. What is the A.N.D. Company?

A. Anglo-Newfoundland Development. We pilot ships for this company. Although we have not received any letters of commendation, our services -- they are quite satisfied with our services.

Q. Now, you say that most of the ships piloted in coastal pilotage are coastal ships. Could you give us the percentage of how many coastal ships percentagewise? How many coastal ships you are called upon to pilot?

A. Well, the percentage of coastal ships I should say would be about 50 per cent, with coastal



1
2 tankers;50 per cent of all the coastal trips made
3 would be made with coastal tankers. This might in-
4 clude the same tanker over and over. One particular
5 incident, we have a coastal tanker that we have piloted
6 I think something like 35 trips.

7 Q. Now, are there any other persons be-
8 sides pilots in the District of St. John's offering
9 and in fact rendering pilotage services on the coast
10 of Newfoundland nowadays?

11 A. Yes. We have several men. Some
12 of them are CNR -- Canadian National Railway masters,
13 who are on leave from their ships. The system of
14 work they have where they work two months on duty and
15 one month off, and during their off-duty time they
16 undertake on the request of ships' agents piloting of
ships on the coast.

17 We have other cases of ships' masters,
18 ships' officers, also doing pilotage apart from the
19 local pilots.

20 Q. If I understand your representations in
21 this respect, you do not wish to have any change in
22 the present situation in regard to compulsory payment
23 of pilotage dues, but you are merely asking if a pilot
24 is requested you should be the one entitled to do it;
to offer your services. Is that correct?

25 A. That is correct, yes.

26 THE CHAIRMAN: For coastal pilotage?

27 THE WITNESS: Coastal pilots.
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3 MR. LANGLOIS: That is all, thank
4 you.

5 BY MR. JACQUES:

6 Q. I don't know if you are aware, but
7 the Cornerbrook pilots do to some extent coastal
8 pilotage.

9 THE CHAIRMAN: On the west coast.

10 Q. On the west coast of Newfoundland?

11 A. No, I am not aware of it.

12 Q. You are not aware of it? When you
13 refer to coastal pilotage in your brief, is this coastal
14 pilotage as was defined when the Commission sat in St.
15 John's? It was explained then that your pilots took
16 ships on certain specified runs up north.

17 A. Yes.

18 Q. That is the coastal pilotage you have
19 in mind?

20 A. It would also include pilotage in and
21 out of ports where there is no recognized pilotage ser-
22 vice now.

23 Q. Clarendville, I think?

24 A. And Baie Verte, Lascie, but not
25 Botwood. We realize Botwood has pilotage service
26 of its own, and we don't want to interfere with that.

27 Q. So has Louisport?

28 A. No, it is not the case with Louis-
29 port. We can't seem to get clarification on Louisport,
30 whether there is pilotage service there or not. They
sometimes have a pilot for one trip and the next time



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2 I go back the pilot is probably acting mate on some
3 ship or he has a charter with the mail, carrying mail,
4 and we consider if he has, and he is doing all these
5 jobs, we can't see how he can be a pilot as well.

6 Q. But this problem with Louisport, is
7 that recent? We did not hear of that problem when
8 we were in Newfoundland.

9 A. First when we started doing coastal
10 piloting, on arriving at the pilot station at Louisport
11 I proceeded to pilot. Shortly after the pilotage
12 service changed and there was another pilot.

13 Q. When was that?

14 A. Maybe 1960 or 1961. 1961. Since
15 1960 there have been one, two, three pilots. They
16 have another pilotage service there.

17 Q. And you have done your own piloting
18 in Louisport?

19 A. Yes.

20 Q. Because the Louisport pilot was not
21 available?

22 A. I couldn't say whether he was
23 available. I don't know whether he is a master or
24 pilot. The question was asked me whether Louisport
25 was a compulsory pilotage district or not, and I
26 understood from the hearings at the Royal Commission
27 hearings at St. John's the Secretary stated there
28 that it was not compulsory pilotage.

29 COMMISSIONER SMITH: What tariff of
30 charges or fees do these non-licensed pilots have in
their coastal pilotage?

THE WITNESS: I think, Mr. Commissioner,
they have different rates. Each individual pilot has



1
2 his own rate. I think mostly on a flat basis, so
3 many hundred dollars a ship. I just don't know.

4 MR. JACQUES:

5 Q. In Louisport, based on your own ex-
6 perience, who does the piloting?

7 A. Well, in 1960 there was a Mr. Primmer,
8 who was a fisherman from Black Island. He had never
9 been to sea as far as I know, but he was piloting there
10 for some years. For some reason or other he was
11 changed, and Mr. Dwyer was a pilot in Louisport.

12 Q. When you took ships into Louisport
13 who did the piloting, you, the master or the Louisport
14 pilot?

15 A. At times, during the piloting in
16 Louisport, the Louisport pilot who was aboard did the
17 piloting, but after that when any pilot was taken I
18 did the piloting into Louisport.

19 Q. Into Louisport?

20 A. Yes. I remember one particular case
21 when I arrived at the station the master did not order
22 the pilot, but apparently the agent did, and the pilot
23 arrived out. I insisted to the master to take the
24 pilot on, seeing the pilot was available, which he did.
25 At the time of sailing the pilot refused to sail the
26 ship. For some reason, whether because I was aboard
27 or -- there was no ill-feeling. He refused to pilot
28 the ship. His bill I understand has been sent for
29 pilotage inward and outward.

30 MR. LANGLOIS: Were you then on the
ship as pilot or as master?



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3 THE WITNESS: As a pilot. As
4 coastal pilot.

5 MR. JACQUES:

6 Q. You took the ship out?

7 A. I took the ship out.

8 MR. JACQUES: My lord, We have
9 some documents presently concerning Newfoundland, and
10 I should like the witness to remain available this
11 afternoon in order that we file these documents and
12 perhaps discuss them with him.

13 THE CHAIRMAN: You will be here, Mr.
14 Langlois?

15 MR. LANGLOIS: Yes.

16 MR. JACQUES: Thank you.

17 BY MR. LANGLOIS:

18 Q. Just one further question: when
19 the Commission sat in Newfoundland, in St. John's,
20 Newfoundland, mention was made of pilotage being done
21 by masters from outside Newfoundland, and there was
22 even mention of an American pilot doing some pilotage
23 in Long Pond Manuels. Would you care to elaborate
24 on that.

25 A. Mr. Langlois, I can't confirm this.
26 For some reason we can't get the required infor-
27 mation. We have been trying to get information. It
28 has all been second-hand information we have been
29 getting. This Talcum Company at Long Pond Manuels,
30 they have a ship there maybe once every two weeks or
maybe once a month -- I am not too sure how often the
ship comes there, but the company, as far as we can



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2 learn, flies a master from the United States, flies
3 a pilot from the United States down to pilot this ship
4 in and out of Long Pond Manuels.

5 Q. Would your pilots be prepared to do
6 this pilotage work?

7 A. We would, yes, definitely.

8 MR. LANGLOIS: Thank you.

9 BY MR. JACQUES:

10 Q. One more question: we were advised
11 that Part VI would be proclaimed in Newfoundland, and
12 there was a change of heart on the part of the depart-
13 ment, and they decided to amend the Shipping Act in order
14 to make Part VI applicable. Have you heard from the
15 department in that respect?

16 A. We had a visit of Captain Slocombe on
17 the pilotage service in St. John's, and we wrote him a
18 letter on our views on that matter. A week later
19 we had a visit from Mr. Baldwin.

20 Q. Mr.?

21 A. Mr. Baldwin.

22 Q. Yes?

23 A. Then we gave him our views. They
24 didn't agree with the way the Department of Transport
25 wanted them apparently, and we haven't heard any more
26 yet.

27 Q. You haven't heard any more? I take
28 it you will be a district under the minister's authority?

29 A. That is what the Department of
30 Transport would like for St. John's.

Q. Have you at any time received any
offer to become prevailing rate employees?



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3 A. Yes, we did, as a matter of fact.
4 We received a letter -- the harbour master, who is
5 secretary of the pilotage commission, received a letter
6 that was passed along to us for comments which were
7 made to him, stating that at present we weren't inter-
8 ested in the prevailing rate status and that we would
9 wish to wait for the finding of the Royal Commission
10 on Pilotage before we made any decision.

11 Q. You wouldn't have with you the ex-
12 change of correspondence with the Department of
13 Transport, would you?

14 A. No.

15 MR. JACQUES: Well, I am sure the
16 department will have it and we can get it from the
17 department.

18 MR. LANGLOIS:

19 Q. Captain, you tell us that apparently
20 it was the wish of the department to have Part VI
21 proclaimed and have this district come under The
22 Canada Shipping Act. What about the wishes of the
23 pilots?

24 A. The wishes of the pilots were to
25 remain as they are. We are quite happy down there.
26 We not only think, we know, that we are performing a
27 good service down there. We have no complaints from
28 shipping companies or from masters or agents or from
29 the public or among the pilots. Everything seems to
30 be running quite smoothly. We see no reason why it
should be changed.

Q. Has there been any prior consultation
before such a decision was reached, between the depart-
ment and the pilots?



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3 A. Well, this thing was approached --
4 was talked about-- five or six years ago before I came
5 into the pilot service; apparently the same thing was
6 talked about at that time, five or six years ago --
7 about 1959, or 58-59; but that was before I became
8 a pilot.

9 Q. Have you been definitely told by
10 the Department of Transport that it is the government's
11 policy to have the district come under The Canada
12 Shipping Act?

13 A. The question is have we been definite-
14 ly told. I couldn't answer that because I am not
15 sure.

16 Q. Isn't it a fact that there has al-
17 ready been submitted to you a draft of bylaws?

18 A. That is correct.

19 Q. By the Department of Transport?

20 A. Yes.

21 Q. And that you have had some discussion
22 with the department in connection with these bylaws?

23 A. That is correct, yes.

24 Q. And I understand these bylaws will be
25 applicable if this district came under The Canada
26 Shipping Act?

27 A. Yes.

28 MR. JACQUES: I understood you to
29 say that you don't want Part VI of the Shipping Act to
30 apply to your district?

THE WITNESS: We would prefer to
remain as we are under our present pilotage commission



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2 at St. John's. If not that commission then another
3 commission set up on the same line.

4 MR. JACQUES: So your objection
5 would be, then, that you don't want to come under the
6 minister but would rather be under a commission?

7 THE WITNESS: Yes, that is correct.

8 THE CHAIRMAN: Can you tell me whether
9 the objection is to The Canada Shipping Act, the way it
10 is, the sections and all of the system there is -- or
11 whether it is that you would prefer to remain with the
12 local commission and not come under the minister?

13 THE WITNESS: I think it might be
14 correct, my lord, to say that we would rather be under
15 the pilotage commission.

16 THE CHAIRMAN: So it is just a ques-
17 tion that you would prefer to have local men dealing
18 with the pilots there?

19 THE WITNESS: Yes.

20 THE CHAIRMAN: This could be done also
21 with The Canada Shipping Act.

22 THE WITNESS: Well, we haven't dis-
23 cussed the Canada Shipping Act too much on this matter;
24 we more or less stick with things pertaining to our
25 local commission.

26 THE CHAIRMAN: Because to have a
27 district administered by the minister is an exception
28 under The Canada Shipping Act.

29 Yes, Captain Slocombe.

30 CAPTAIN SLOCOMBE: I think, perhaps,
some explanation might be in order here. There seems



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3 to be some misunderstanding here, and I don't quite see
4 how it arose. But Part VI must be declared if the
5 Newfoundland Acts have been repealed. If Part VI is
6 not declared then they will have no pilots and no
authority whatsoever.

7 THE CHAIRMAN: That was the reason
8 behind my last question.

9 CAPTAIN SLOCOMBE: Yes; and I don't
10 think Captain Collins quite understands this. I think
11 he is mixing up an offer of government employment with
12 a district under The Canada Shipping Act.

13 Now, as Captain Collins mentioned, I
14 paid a visit to St. John's and to the other districts of
15 Newfoundland and we had long discussions on the bylaws
16 as they would exist after Part VI would come into effect,
17 and I really thought we had reached some quite consider-
18 able accord in that, and I came back to Ottawa. This
19 is lying in abeyance until I am free to give closer
20 attention to it; but, in the meantime, Mr. Baldwin the
21 deputy minister was in Newfoundland on other business
22 and he took the opportunity to talk to the pilots, and
23 it was considered that they should have the opportunity
24 to accept or refuse government employment. So at
25 Mr. Baldwin's instructions a letter was written setting
26 out what would be the offer or the conditions under
27 which government employment would be offered. I haven't
28 the date of it, but I can get a copy of that letter.

29 THE CHAIRMAN: Yes, by all means;
30 the correspondence can be filed.

CAPTAIN SLOCOMBE: The pilots considered



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2 this as they were asked to do and they replied
3 that they did not want to consider this change
4 until after the Royal Commission report had been
5 made; so we are not considering that any further
6 at the moment. But we still have to set up a
7 district there under Part VI one way or the other
8 after the Newfoundland Acts are repealed. So
9 it was understood that the pilots were quite in
10 accord that the minister would be the pilotage
11 authority because this makes it simpler with regard
12 to the supply of boats and office staff, and so
on.

13 Now, if they have any strong objection to
14 this we don't know about it; but there is a little
15 difficulty, if they do object to it, because we first
16 asked the existing local commission if they would be
17 willing to carry on as a pilotage commission under
the Canada Shipping Act . . .

18 THE CHAIRMAN: Because they can't
19 derive any benefit out of it?

20 CAPTAIN SLOCOMBE: Yes. The
21 present commissioners said Yes, they would continue
22 under certain conditions, part of which would be some
23 remuneration for the commissioners; and, as your
24 lordship knows, the Canada Shipping Act does not
25 provide for any remuneration for the members of the
26 local pilotage authority. Also, there were other
conditions such as special accommodation, and so on.

27 Well, this is not considered feasible,
28 and under the circumstances, since they obviously
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2 were not anxious to carry on, we thought it would
3 satisfy everybody if the minister became the pilotage
4 authority -- that it would simplify things; but we
5 had reached agreement, I thought, that the bylaws which
6 would be made with the minister as pilotage authority
7 would pretty well carry on exactly what the pilots
8 were wanting to do.

9 I thought we had come to that
10 agreement. Unfortunately, I haven't been able to
11 bring it up because of the Royal Commission work,
12 but we certainly hope to get back to this in another
13 week or so; so I do hope we will come to some agree-
ment on this matter.

14 MR. JACQUES: By the way, Captain
15 Slocombe, can you tell us whether the department
16 has made any offer to the pilots in Cornerbrook,
17 Louisport and Botwood to become prevailing rate
employees?

18 CAPTAIN SLOCOMBE: No, definitely.

19 THE CHAIRMAN: We have been dealing
20 only with St. John's so far.

21 CAPTAIN SLOCOMBE: Yes; this is only
22 so far as St. John's is concerned. I did visit the
23 other three districts to try to clarify what would
24 be the effect of the proclamation of Part VI of The
25 Shipping Act, and we have bylaws for each of the
26 districts except Louisport. I still have to get
back to Louisport to see what is to be done.

27 MR. LANGLOIS: My lord, although I
28 had very little to do with the question of the changing
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2 of the pilotage authority in St. John's I under-
3 stand that there was no confusion; that the pilots
4 in St. John's realized what the situation is; and
5 that Captain Collins has just expressed the view
6 that the pilots would prefer to stay under the pre-
7 sent situation or something similar to it. That
8 is the way I understood it.

9 Is that the fact, Captain Collins?

10 THE WITNESS: Yes.

11 MR. LANGLOIS: There is no confusion
12 in your mind as to what is taking place?

13 THE WITNESS: No.

14 THE CHAIRMAN: If the present
15 commission does not wish to carry on under the con-
16 ditions they would have to be replaced by some other
17 commissioner, and the St. John's pilots would be
18 willing to take over as commissioners?

19 MR. LANGLOIS: I understand, Captain
20 Collins, you would have no objection to having a
21 similar set-up, comparable to the one you have now
22 under The Canada Shipping Act?

23 THE WITNESS: That is correct.

24 MR. JACQUES: In other words you
25 don't want the Department of Transport to be your
26 boss?

27 THE WITNESS: That is correct.

28 MR. LALONDE: I would like to take
29 issue with the statement made by Captain Slocombe that
30 the plan proposed, that the minister be appointed
pilotage authority would simply the matter. I submit



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2 that this is a pious hope.

3 THE SECRETARY: Captain, did
4 you also say that you would even prefer that no
5 change be made in the present status pending the
6 report of the Royal Commission?

7 THE WITNESS: Yes.

8 THE SECRETARY: Did you make these
9 views known to the Department of Transport when there
10 were discussions?

11 THE WITNESS: If I remember cor-
12 rectly, yes.

13 THE SECRETARY: Thank you very much.

14 CAPTAIN SLOCOMBE: Yes, this is cor-
15 rect; they did make their views known, but the thing
16 is that there are other matters involved in this.
17 There is the matter of the status of the harbour in
18 St. John's, for instance; and when these Newfoundland
19 Acts are repealed then something must be done unless
20 the pilots want to be absolutely without any bylaws,
21 or any compulsory pilotage, or pilotage dues, or
22 anything else.

23 We are trying to look after the
24 pilots in this matter.

25 THE CHAIRMAN: In other words, there
26 is the fact that the Newfoundland laws are being re-
27 pealed for other reasons than pilotage . . .

28 CAPTAIN SLOCOMBE: Yes.

29 THE CHAIRMAN: . . . and there is
30 going to be absolutely no laws so far as they are
concerned unless some organization is made under the



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3 Canada Shipping Act?

4 CAPTAIN SLOCOMBE: This is correct.
5 If there were a local commission willing to act and
6 take over I think, perhaps, the minister would have
7 second thoughts about becoming the pilotage authority.

8 THE CHAIRMAN: Yes, there would have
9 to be some other commissioners if the present ones
10 would not carry on.

11 CAPTAIN SLOCOMBE: My lord, I wish
12 to assure you that we are trying to protect the
13 interests of the pilots in this.

14 MR. LANGLOIS: Hear, hear!

15 THE SECRETARY: I am sorry if, by
16 asking the question, I have brought up the argument,
17 because it was not my intention. I wanted to have
18 the record clear that he had said something to this
19 effect in his earlier evidence.

20 MR. LANGLOIS: I would, my lord, like
21 to make the reservation that I don't think there is
22 any emergency in acting in the way indicated even
23 although some legislation is presently before
24 Parliament. Any part of legislation offered to the
25 pilots -- I don't know what the legislation is --
26 the coming into force of these Parts could very well
27 be postponed, just as many -- some -- sections of
28 the Canada Shipping Act, which have been passed years
29 ago, have still not been proclaimed; and they could,
30 therefore, wait until this Commission has handed
down its decision and given a pronouncement on this
matter before acting in connection with the St. John's



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2 District.

3 CAPTAIN SLOCOMBE: I would like to
4 ask Mr. Langlois if he has read the St. John's
5 Harbour Pilotage Act. They are inextricably inter-
6 woven. If the Act is repealed, as I understand it
7 the pilotage part cannot be separated.

8 THE CHAIRMAN: And they are being
9 repealed in order that the St. John's Harbour can be
10 taken over by the National Harbours Board?

11 CAPTAIN SLOCOMBE: Yes.

12 MR. JACQUES: Isn't there even
13 strong doubt that the Act which Captain Slocombe
14 referred to is valid?

15 CAPTAIN SLOCOMBE: It has been an
16 unsatisfactory situation for a long time.

17 MR. LANGLOIS: We have been waiting
18 for a few years. If it has been existing that long
19 we can wait . . .

20 THE CHAIRMAN: I have heard, I
21 think, that this is the second or third time that some
22 kind of legislation has been before Parliament.

23 MR. LANGLOIS: We wish to express
24 the view that any decision in this respect should be
25 postponed until this Commission has made its report.

26 THE CHAIRMAN: It would be up to
27 the department; but should it happen that this legis-
28 lation be passed then there is going to be the fact
29 that the present organization of St. John's Harbour
30 as a pilotage district is just going to be non-
existent.



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3 MR. LANGLOIS: I haven't seen the
4 legislation, and I don't know.

5 CAPTAIN SLOCOMBE: My lord, we
6 realize this, and I may say that we are trying to
7 arrange things so that when Part VI is proclaimed
8 the St. John's pilots will continue in practically
9 the same way as they are now.

10 Also, we are trying to make arrange-
11 ments for the cost of pilotage. We are trying to
12 look after the pilots in this respect. Also,
13 whatever is done will have no deterrent effect on any
14 changes that might be occasioned after the report of
15 the Royal Commission is made.

16 MR. LANGLOIS: My lord, I haven't
17 consulted with my principals in this respect, but I
18 would like to know from Captain Slocombe if the
19 department would have any objection in the meantime
20 to the pilots of St. John's forming their own com-
21 mission?

22 CAPTAIN SLOCOMBE: This is a new
23 thought, and I am not sure that it is valid under
24 the present Act.

25 MR. LANGLOIS: There could be
26 appointed local commissioners.

27 THE CHAIRMAN: Yes; as long as some
28 commissioners are willing to take over within the
29 requirements of The Canada Shipping Act; and I sup-
30 pose the department would have no objection to that
unless the minister, because he is from Newfoundland,
would like to have the extra work! I don't know.



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3 MR. LANGLOIS: There is no legal
4 objection to pilots being commissioners, I understand.

5 THE CHAIRMAN: That I don't know.
6 Personally I would think that there is a basic one
7 in that there is conflict of interest. That is what
8 I would think. Certainly I would be against it,
9 but maybe not in the law; maybe I am misinterpreting
10 the law.

11 MR. LANGLOIS: I don't think there
12 is.

13 CAPTAIN SLOCOMBE: If Mr. Langlois
14 wishes to make some representations they will be
15 submitted to the right quarters.

16 MR. LALONDE: Captain Collins, were
17 there any reasons given by the deputy minister when
18 he offered you the status of prevailing rate employees
19 of the Department of Transport -- were there any
20 reasons given why this offer was made?

21 THE WITNESS: I can't recall any
22 reasons why the offer was made, if we would accept;
23 I just forget the text of the letter.

24 MR. LALONDE: This wasn't by letter?

25 THE WITNESS: It was by letter, or
26 a memo to the harbour master who, in turn, passed it
27 along to the pilots for their consideration and com-
28 ments.

29 MR. LALONDE: I thought I had under-
30 stood that Captain Slocombe said that Mr. Baldwin was
in Newfoundland and made the offer. Maybe I mis-
understood.



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THE WITNESS: No.

CAPTAIN SLOCOMBE: I wasn't present at the meeting, but I understood that Mr. Baldwin had mentioned it; but maybe I was wrong. It was following his trip down there that we were instructed to send out this offer.

THE WITNESS: It could be that Mr. Baldwin mentioned it, but it wasn't definite.

MR. LALONDE: Did you have a meeting with Mr. Baldwin when he was down?

THE WITNESS: Yes.

MR. LANGLOIS: Thank you, Captain Collins.



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3 Now we come to the chapter en-
4 titled Pilotage Dues, at pages 16, 17 and 18, para-
5 graphs 24 to 40, and the witness is Captain MacKay.

6 CAPTAIN J. L. MacKAY, sworn

7 DIRECT EXAMINATION BY MR. LANGLOIS:

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9 Q. Would you state, please, your
10 place of residence?

11 A. Vancouver, B. C.

12 Q. Since you have already appeared
13 before this Commission I am going to dispense with
14 your qualifications as a mariner and pilot, but I
15 would ask you to state to the Commission your function
16 with the Canadian Merchant Service Guild and the
17 pilotage group of the British Columbia coast.

18 A. I am vice-chairman of the West Coast
19 of the National Pilots' Committee of the Canadian
20 Merchant Service Guild and I am chairman of the
21 pilotage committee for the British Columbia Pilotage
22 district.

23 Q. Captain MacKay, in the chapter
24 previously mentioned you are suggesting that the pre-
25 sent basis for computing pilotage dues should be
26 changed. Would you care to give the reasons behind
27 this recommendation?

28 A. Yes. The reasons behind this recom-
29 mendation are that there are many infractions in the
30 present method of calculating pilotage dues and we
believe that the method whereby the actual physical



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2 dimensions of the ship be taken into consideration
3 would be far more fair than the present method.

4 Q. What are the main causes of complaint
5 you are talking about?

6 A. The main cause for complaint is the
7 variation in the tonnages of certain vessels, or in
8 their tonnage certificates.

9 Q. Have you had an occasion to read
10 the evidence -- or I think you were even present at
11 that sitting -- of Captain Crook at the sittings in
12 Ottawa of the Commission held in June, where he
13 briefly explained the formula for the basis of
14 calculation of pilotage dues, which formula will
15 use the physical dimensions of a ship by means of
16 units?

17 A. Yes. I was present when Captain
18 Crook gave his formula and explained it and this is
19 the type of thing that we have in mind -- not neces-
20 sarily this exact formula, but a formula based on
21 these physical dimensions of the ship would be satis-
22 factory.

23 Q. I understand that the main reason --
24 and correct me if I am wrong -- behind the recommen-
25 dation is that you want to have ingredients (if I
26 may use this expression) in the calculation of
27 pilotage dues, such as physical dimensions which
28 are readily ascertainable, such as length, breadth
29 and depth of a ship, or draught; is that correct?

30 A. Yes, that is correct.

Q. You also mention in paragraph 38



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3 towards the middle of that paragraph that the dis-
4 tance should also be taken into account. Would
5 you further elaborate on that, please, and say why
6 you are recommending that distance should come into
consideration?

7 A. Yes. Distance is a very important
8 factor in the British Columbia pilotage district where
9 our trips can vary from one to six hundred miles.

10 THE CHAIRMAN: We have seen
11 yesterday the same thing about the lakes.

12 THE WITNESS: Yes.

13 THE CHAIRMAN: It would be the same
14 thing on the east coast of Newfoundland also.

15 MR. LANGLOIS:

16 Q. Yes. I also understand, Captain
17 MacKay, and I am referring in particular to paragraphs
18 35 and 36 of this chapter, that it is your belief
19 that physical dimensions should be taken into account
20 for two reasons; first, because a fixed rate would be
21 a burden on smaller vessels, and certainly because
22 the responsibility of the pilot fluctuates with the
size of the ship. Would you care to elaborate on
that?

23 A. Yes. Well, I agree with that state-
24 ment. I certainly do think that the responsibility
25 of the pilot is greater on a larger vessel and having
26 a fixed rate certainly is not fair to either the pilot
27 or the shipowner due to the variation in the size of
the vessels.

28 Q. When you referred a while ago to
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2 abuses in using different tonnages do you have the
3 same situation on the West Coast as we heard in the
4 course of the evidence adduced before this Commission
5 in connection with other districts, where in case of
6 doubt pilotage dues have been computed on the basis of
7 the tonnages shown in Lloyd's Registry of Shipping?
8 Do you have to resort to such means on the west coast?

9 A. Yes, we have done this.

10 Q. Is it accepted by the shipowners?

11 A. Yes, to the best of my knowledge
12 it has never been disputed.

13 Q. Would you tell the Commission how you
14 go about it? Do you do it through the customs agent
15 or ---

16 A. I believe it is done through the
17 customs agent. The pilot office has a copy of
18 Lloyd's Registry there and if there is any doubt
19 as to the tonnage that is indicated on the card they
20 can check with the Lloyd's Registry, and there never
21 has been a dispute on that.

22 Q. What happens when you have a ship
23 that is not registered in Lloyd's?

24 A. Well, I cannot recall a case where
25 this has happened but I should think they would have
26 to resort to the information from the customs in
27 that case.

28 Q. Are these frequent occurrences on
29 the west coast, these troubles with different tonnages
30 being used?

A. Well, our biggest problem with regard



1
2 to tonnages on the west coast is the case of the
3 shelter deck vessel -- and I am sure that evidence
4 was given.

5 THE CHAIRMAN: Yes.

6 MR. LANGLOIS: When the Commission
7 sat on the west coast?

8 THE CHAIRMAN: Yes, and it was
9 completed here with Captain Slocombe. Captain
10 Slocombe filed a very good paper on that.

11 THE WITNESS: Yes.

12 MR. JACQUES: It has not been filed
yet, my lord.

13 THE SECRETARY: We have it, my lord.

14 THE CHAIRMAN: That is all right.
15 Would you give that paper a number?

16 THE SECRETARY: Yes. It would be
17 1387, a paper on tonnage measurement for the Royal
18 Commission on Pilotage prepared by Captain F. S.
19 Slocombe, Department of Transport. To this paper
20 is attached a certificate of registry of a ship and
21 also the working papers for the tonnage of a ship. I
22 have several copies of the paper but not of the
annexes. It will be 1387.

23 ---EXHIBIT NO. 1387: Paper on Tonnage Measurement
24 prepared by Captain F. S.
Slocombe, with attachments.

25 MR. LANGLOIS:

26 Q. Captain MacKay, do you have anything
27 to add in connection with this calculation of tonnage
28 dues?
29
30



1
2
3 A. No, sir; I think it has been covered.

4 MR. LANGLOIS: Thank you.

5 THE CHAIRMAN: Excuse me; just be-
6 fore we go on I think I would like to find some
7 principles before we carry on. With regard to the
8 question of mileage, from what we have seen so far
9 I think the question of mileage is always taken
10 into consideration. At some places in some dis-
11 tricts on account of the features of the district
12 this is a variable feature; so therefore it has to
13 be taken care of as something that will vary. This
14 is the case in the coastal districts and the Great
15 Lakes.

16 In the other districts where the
17 distance is almost the same all the time -- like going
18 into a harbour where the distance will not vary, the
19 distance is not an important factor. On the St.
20 Lawrence the distance varies and therefore in the
21 bylaw we see that the tariff base for the whole route
22 is divided into thirds, and so on, so I think almost
23 everywhere this is taken care of and when it is
24 invariable there is no reason why the calculation
25 should be complicated by adding this factor that
26 does not vary.

27 But I think there is one more impor-
28 tant thing to find out before discussing the dues or
29 what they should be and what their components should
30 be, and so on. That is to find out what is the
purpose of those dues -- and this would vary with the
system of pilotage organization there is in each place.



1
2
3 Let us take Prince Edward Island, for
4 instance, where it is the price for the job, for the
5 pilot, and it belongs to the pilot. Then I agree
6 entirely it should be the price for that job. It
7 should be commensurate with the responsibility of the
8 pilot. But in a system of compulsory payment, when
9 we have in mind that the compulsory payment system is
10 merely a tax on the users -- not the users; I mean on
11 traffic -- to maintain a service, the responsibilities
12 of the one doing the job and so on has nothing to do
13 with that providing there is sufficient money raised
14 thereby to maintain the service. And one part of
15 the maintaining of the service is the payment of the
16 pilots.

17
18 Provided the pilots receive a fair
19 remuneration, a good remuneration and an adequate
20 remuneration, that they are well paid, it does not
21 matter whether this job bears more responsibility
22 than the other or that the price that the Authority
23 is going to receive -- not the pilot, the Authority
24 -- is different, provided the Authority receives
25 such money; because I do not think in the compulsory
26 payment system the pilots are paid by the job done.
27 The exception is the Americans on the Great Lakes.
28 But in the other cases they are paid for either time
29 available or for having done a similar workload as the
30 others have. So therefore it does not matter whether
one job is being charged more than the other, provided it is only a matter of levying a tax on the traffic.



1
2
3 I think we have to take into con-
4 sideration the system of pilotage organization we have
5 and it is a problem that we are confronted with. If
6 it were a price for the job, that is all right; it is
7 commensurate with the work. It is not commensurate
8 with the work if it is a tax. Then the whole
9 philosophy or the whole policy is different.

10 I am just explaining these thoughts
11 in my mind. They may be wrong, but I prefer to let
12 you have my ideas.

13 MR. LALONDE: I shall keep my
14 ideas for argument later on; but I am in very strong
15 disagreement with what you say.

16 THE CHAIRMAN: All right.

17 MR. LALONDE: I could understand
18 your point of view if compulsory payment of pilotage
19 dues were a matter where eighty or ninety per cent
20 of the ships were just paying it as a kind of tax
21 to allow for the existence of a few pilots in case
22 they are needed. But I submit that in a large
23 number of cases all over the world and even in
24 Canada compulsory payment of pilotage dues is in
25 effect for all practical purposes compulsory pilotage
26 and pilots are used in each instance. They do all
27 the work. What they do after with the dues,
28 whether they go to a pool, are divided according to
29 a pool, or whether the pilots keep them, I think this
30 is another matter. It is not irrelevant, but it is
another question altogether.

THE CHAIRMAN: Yes.



1
2
3 MR. LALONDE: But I submit that it
4 is a question of maybe ---

5 THE CHAIRMAN: That is all right.
6 I just mentioned it now because of course we have
7 principles in those paragraphs 44 and following.
8 We have principles there and we do not want to let
9 these statements go without mentioning that there
10 might be some difference.

11 MR. LANGLOIS: My lord, we had an
12 exchange of similar comments yesterday in connection
13 with compulsory pilotage.

14 THE CHAIRMAN: That is right.

15 MR. LANGLOIS: I would like to know
16 what your lordship has in mind when your lordship
17 refers to pilotage dues in the form of a tax. In
18 some districts half pilotage dues are required to
19 be paid even if a pilot is not used. We have it
20 for example in the Halifax District. Is that
21 what your lordship means?

22 THE CHAIRMAN: Only half?

23 MR. LANGLOIS: Or another propor-
24 tion. In Sydney, for example, it is one-quarter.
25 It used to be one-third.

26 THE CHAIRMAN: Yes. I know in
27 some places the tariff is not exactly the same, no.

28 MR. LANGLOIS: Is it what your
29 lordship has in mind?

30 THE CHAIRMAN: No. I think the
first reason to impose a compulsory payment system is
to see that there is sufficient money coming into the



1
2
3 pool in order to take care of the expenses of the
4 Pilotage Authority, one of which is to pay the
5 pilots. It is only because it happens that the
6 Minister was also the Pilotage Authority and that the
7 Minister was very close to the government that through
8 that indirect subsistence went to the pilotage. It
9 is not true in the cases where they are self-
10 supporting. In all the districts with the Minister
11 as Pilotage Authority you have very huge subsistences
12 being given. But this is an exception. Normally
13 in the system under the present law the districts
14 should be self-supporting and the pilots should
15 get what remuneration is provided for them and it
16 should come from the dues and there should be suf-
17 ficient dues to pay it.

18
19 Therefore it is a question of
20 budgeting and raising the tariff to meet the budget,
21 to meet the liabilities of the district and to pay
22 the pilots. This is from what I see the authorities
23 are obliged to do.

24
25 In Prince Edward Island they do away
26 with that system and say to the pilots: "That is all
27 right; you bill the ships and here is what you are
28 going to bill from; it is your money and we have
29 no other expenses." Maybe I am wrong, but from
30 what I can see from the law it seems to be that way.



1
2
3 MR. LALONDE: I submit, my lord,
4 the historical reasons for compulsory payment of
5 pilotage dues is not for tax purposes, if we might
6 call it that way.

7 THE CHAIRMAN: What do you mean?

8 MR. LALONDE: As far as I can
9 ascertain from what I read anyway the main reason was
10 in connection with the responsibility of the State
11 and the responsibility of the pilot. It was a
12 question of liability, really, and the English
13 authors I read on the subject elaborate this point
14 at length.

15 THE CHAIRMAN: Yes?

16 MR. LALONDE: That is the reason
17 why, and Mr. Brisset probably knows more about this
18 than I do too, the reason why the government put
19 compulsory payment of pilotage dues as a rule, for
20 instance, in England, a question of liability; not
21 a question of revenue for pilots in one area or
22 another area.

23 THE CHAIRMAN: I cannot see that
24 point very well because ^{compulsory} pilotage could deal with
25 the question of tariff very much.

26 MR. BRISSET: It is actually, my
27 lord.

28 MR. LALONDE: If you look at the old
29 legislation and the authors historically, in the
30 19th century, the whole argument was not a question
of taxation or revenue, but only a question of
liability at the time.



1
2 THE CHAIRMAN: It is not certainly
3 a question of safety of the ship. We have only to
4 look at the maritime traffic, and look at the exemp-
5 tions and you find it is not. Certainly it is not
6 because a ship one day has one flag and the same
7 ship one day changes the flag and that ship has not
8 the same crew.

9 MR. LALONDE: I will quote the
10 authors anyway.

11 THE CHAIRMAN: All right. When
12 I mention things like that, we are laymen. We do
13 not know much about pilotage. What we have learned
14 was through you people and through what we read and
15 the impressions we are gathering. Maybe we are
16 on the wrong track, so it is better to express our
17 views from here openly, and if we make mistakes,
18 and we are going to make mistakes, especially
19 with that background we are liable to make some.

20 MR. LANGLOIS: I do not wish to
21 prolong the argument, but I do wish to bring to
22 your attention the fact that when you mentioned
23 there were exemptions, exemptions should be made for
24 ships because they were the same crew -- also by
25 the same token there are exemptions today in the
26 Canada Shipping Act which you could call courtesy
27 exemptions. For example, there is no reason for
28 a warship because she is a warship being exempted.
29 There is no reason why a hospital ship, even a foreign
30 ship, should be exempted. These are courtesy
exemptions.



1
2
3 THE CHAIRMAN: I do not think there
4 is any provision for warships, Canadian warships.
5 That means the Crown does not pay tax.

6 MR. LANGLOIS: Any warship. Hospital
7 ships also.

8 THE CHAIRMAN: But generally for
9 Canadian the Crown should not be taxed.

10 MR. LANGLOIS: They are, rather,
11 courtesy exemptions.

12 THE CHAIRMAN: Mr. Brisset, do you
13 wish to state your question now?

14 CROSS-EXAMINATION BY MR. BRISSET:

15 Q. I do not want to add anything, my
16 lord, to the argument. I just want to ask two or
17 three questions.

18 In paragraph 35, captain, of the
19 brief of the Guild, I find these words:

20 "The single fixed rate is unjust
21 to shipowners".

22 When this statement was made, captain, was it intended
23 to express the views of the pilots or views of the
24 shipowners?

25 A. Views of the pilots.

26 Q. In support of the statement, captain,
27 you go on and say, and I quote:

28 " . . . consequently imposes a financial
29 burden on owners of smaller vessels."

30 I assume these are the views of the pilots, too?

A. Yes.



1
2 Q. Are you aware of the structure of
3 the Seaway tolls in the St. Lawrence Seaway?

4 A. No, I am not familiar with the
5 Seaway tolls.

6 Q. I might mention to you there is a
7 rate for bulk cargoes and a rate for general cargoes,
8 the rate for general cargoes being more than twice
9 that of bulk cargoes. Would you not agree with me
10 that generally the larger ships carry bulk cargoes
and the smaller ships carry general cargoes?

11 MR. LANGLOIS: Not necessarily.

12 MR. BRISSET:

13 Q. Not always, but generally?

14 A. Generally speaking, yes.

15 Q. How do you explain then that under the
16 Seaway toll there is a lesser charge for the larger
ship and a bigger charge ---

17 MR. LANGLOIS: I do not think the
18 witness should be asked to explain the policy of the
19 Seaway Authority.

20 THE WITNESS: No, this I am not
21 aware of.

22 MR. LANGLOIS: There are also com-
23 modity rates on the Seaway.

24 MR. LALONDE: That would not make the
Seaway rates fair for all that.

25 MR. BRISSET:

26 Q. In paragraph 26, captain, you state:

27 "This system is also unjust to
28 the pilots, as it does not take into
29
30



1
2 account the size of the vessel
3 and consequently the fact that
4 the responsibility of the pilot and
5 the value of his services fluctuate
6 according to the importance of the
7 vessel involved."

8 What is meant by the word "importance"? Is that the
9 size or the kind of trade she is engaged in, or what?

10 A. I would say what is meant here was
11 that a vessel, particularly a passenger vessel, would
12 have a greater number of people on her, and the respon-
13 sibility of the pilot would be greater on a passenger
ship than it would on a smaller cargo vessel.

14 Q. In other words, when you say the
15 word "important", you have in mind the type of trade
16 in which the vessel is involved, and as a comparison
17 you have given us the case of a passenger vessel as
opposed to a cargo ship?

18 A. Yes.

19 Q. Do you have other illustrations that
20 would explain the use of your word "important" here?

21 A. No, I think that gets our thoughts
22 across on that.

23 BY MR. JACQUES:

24 Q. One question: in paragraph 38 where
25 you give the basis for the calculation of the rate,
26 you mention dimensions of the vessel such as the overall
27 length, breadth, depth and possibly draught. You
28 mean really "and possibly draught". The depth of
29
30



1
2 the vessel would be taken into account and also her
3 draught?

4 A. Oh, yes.

5 Q. Both factors?

6 A. Yes.

7 Q. This is not a misprint?

8 A. No. That is so.

9 MR. JACQUES: Thank you.

10 THE CHAIRMAN: Are there any further
11 questions of Captain MacKay?

12 I have one question altogether
13 different with regard to B.C. A question arose
14 from yesterday's evidence about the Great Lakes. I
15 was wondering about who pays your expenses when you
16 are at another boarding station or at another port
17 awaiting assignment. For instance, you are from
18 Vancouver. You have been sent, let us say, to
19 Nanaimo on a ship and then the superintendent asks
20 you to stay there because he is going to have another
21 assignment. Your expenses while you are there
22 cannot be borne by any ship?

23 A. No, that is borne by the pilot.

24 THE CHAIRMAN: By the pilot himself
25 or by the organization?

26 THE WITNESS: By the organization.

27 THE CHAIRMAN: And you are reimbursed?

28 THE WITNESS: Yes, we are reim-
29 bursed.

30 THE CHAIRMAN: So whether the
expenses are incurred at the ship's request or the



1
2 superintendent's request you are reimbursed anyway?

3 THE WITNESS: Yes.

4 THE CHAIRMAN: It is not the same
5 thing as we have seen yesterday about the Great Lakes?

6 THE WITNESS: No.

7 THE CHAIRMAN: In the Great Lakes
8 when they are waiting assignment, the pilot, say, from
9 the Soo, would have to bear his own expenses?

10 THE WITNESS: Yes. It is different.

11 THE SECRETARY: My lord, if I may,
12 to come back to the question that the Commission
13 counsel put to you relative to the basis for the
14 formula to assess -- a new formula to assess pilotage
15 dues, he asked you, and I was wondering whether you
16 fully understood the question, whether the length,
17 breadth and depth, plus -- necessarily plus -- some-
18 thing else as the basis would be required or whether
19 you meant length, breadth and depth and in certain
20 districts other factors such as draught and mileage
might be regarded to take care of the differences in
pilotage waters.

21 Do you have in mind as a basis the
22 length, breadth, the size of the ship, the three
23 dimensions, or did you have in mind as the basis for
24 that formula the size of the ship, represented by
25 the length, breadth and depth, and something else as
26 a basis for the formula? I think this is fairly
27 important so that we will understand what you are
really trying to convey or suggest to the Commission.

28 MR. LANGLOIS: Since it is a
29
30



1
2 question of drafting, and I am responsible for the
3 drafting, the three criteria which should be used
4 as a basis are the three mentioned there, the
5 length, breadth and depth, and in some cases pos-
6 sibly the draught when draught is an important
7 factor.

8 THE SECRETARY: This is what you
9 understand?

10 THE WITNESS: Yes.

11 THE CHAIRMAN: Should I say that
12 your proposal is twofold? First, there should be
13 a uniform way of calculating pilotage dues all
14 across Canada?

15 MR. LANGLOIS: Yes.

16 THE CHAIRMAN: The basis of cal-
17 culation should be uniform all through Canada?

18 MR. LANGLOIS: That is right.

19 THE CHAIRMAN: And secondly the
20 components should be these you have just mentioned?

21 MR. LANGLOIS: Yes. Is that clear
22 now?

23 THE SECRETARY: Yes, thank you very
24 much.

25 MR. LANGLOIS: Any further questions?
26 Thank you, Captain MacKay.

27 ---Witness withdrew.

28 MR. LANGLOIS: My lord, we will now
29 go on to the chapter entitled Pilotage by Ship
30 Officers, pages 19, 20 and 21, paragraphs 41 to 47



1
2 inclusive, and the witness will be Captain Denis
3 Fournier.

4
5 CAPTAIN DENIS FOURNIER, sworn

6 DIRECT EXAMINATION BY MR. LANGLOIS:

7
8 Q. Captain Fournier, will you please
9 state your address and profession?

10 A. I live in St. Croix, Quebec, and I
11 am a pilot in the District of Quebec.

12 Q. Since it is the first time you
13 appeared as a witness before the Commission, would
14 you tell your professional qualifications, your
15 sea experience, and so forth?

16 A. I hold second mate foreign-going
17 certificate and master's home trade certificate.

18 Q. You are a pilot besides that?

19 A. Yes, I have a pilot's licence.

20 Q. How long have you been a pilot?

21 A. Since 1959.

22 Q. Now, what function, if any, do you
23 presently hold in either your local pilotage organiza-
24 tion and/or in the Canadian Merchant Service Guild?

25 A. In the local organization I am
26 director of the Corporation of the River St. Lawrence
27 Pilots, and I am president of the Eastern Branch of
28 the Canadian Merchant Service Guild.

29 Q. Now, Captain Fournier, in paragraph
30 41 mention is made of the complicated manifold
functions, tasks, of an officer on a modern vessel.



1
2 Would you care to explain what you mean by that?

3 A. Well, the task performed by an
4 officer on a modern vessel or on any vessel, especial-
5 ly on the inland trade, is one where the officer has
6 long hours, performs long hours.

7 The officer on board a vessel
8 keeps a four-hour watch. Eight hours off, and if he
9 is in the Seaway he might be called out twelve hours
10 or sixteen hours a day. It all depends on what
11 kind of manoeuvre they have to do. If weather is not
12 too good in the Seaway he may have to work as much as
13 twelve to sixteen hours a day.

14 In port the loading of a vessel is
15 done under the supervision of the chief officer, and
16 if he has just gone off watch, say at eight o'clock in
17 the morning, and he has to load the ship during the
18 day, and he has been up since four o'clock in the
19 morning, that means, if the ship takes eight hours
20 to load, he will have been up from three-thirty in
21 the morning until twelve o'clock -- or four o'clock the
22 next afternoon, at which time he will have to take
23 his watch on again, and there will be a span of
24 sixteen hours of work for this man. That is his
25 normal duties, and that is what a ship officer does.

26 Q. Do you mean by that, Captain Fournier,
27 for example, an officer can be called upon in port to
28 look after the loading of the ship, and as soon as he
29 has finished that, he is called upon to go on watch,
30 and he could then be asked to act as a pilot? Is
that what you have in mind?



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A. Well, yes.

Q. Who on board the ship will be normally the officer more qualified to assist the master in the piloting of the ship?

A. He would be the chief officer. He would have the most experience. Being the chief officer he would be the man that would help the master.

Q. What would be his main function?

A. Loading of the vessel, supervision of the work of the crew or the unloading of the ship. Those are his main functions in port.

Q. Would it be also his responsibility to check the stability of the vessel when she is loading?

A. He would have to make these calculations also while / doing this supervision of loading.

Q. During the time of loading I understand he would be quite a busy man, and will have no time for rest?

A. He certainly has no time for rest.

Q. If he is called upon to take over his watch as the vessel leaves the port, it becomes a question of physical endurance as to whether or not he is capable of doing the job?

A. He is a tired man, and a tired man can certainly not take over a ship in restricted water and put in these hours of work that I mentioned before, especially if he has been up for sixteen hours.

Q. Now, in the following paragraph, which is paragraph 42, reference is made to the results of



1
2 this modern cargo handling equipment or gear both
3 on ships and at port terminals. Would you care
4 to elaborate on that, Captain Fournier?

5 A. Well, the modern cargo handling
6 gear mentioned in this article here -- and I refer
7 to it as gear -- that is the ships now have their own
8 unloading gear. In the case of a self-unloader,
9 they have their own machinery to do that on board the
10 vessel. This is something that helps the ship.

11 THE CHAIRMAN: We have seen the
12 CSL ships on the Seaway, the new type provided with ---

13 THE WITNESS: With side doors.

14 THE CHAIRMAN: Yes. Just built
15 for that.

16 THE WITNESS: Yes.

17 MR. LANGLOIS:

18 Q. The FORT CHAMBLEY, for example?

19 A. Yes, and the FORT ST. LOUIS.

20 Q. In the coal trade you have also ---

21 A. Self-unloaders.

22 Q. The conveyor belts?

23 A. Conveyor belts.

24 Q. These are the types of vessel you
25 have in mind?

26 A. That is right.

27 THE CHAIRMAN: We just saw in the
28 paper a few days ago in British Columbia a new type,
29 and this will cause a problem. It is a barge
30 especially built for the purpose of transporting
paper. It is just a huge barge, just for loading
that, and that is all, doing coastal work.



1
2 MR. LANGLOIS:

3 Q. Now, referring to modern methods of
4 loading cargoes, would this include what we call the
5 container system?

6 A. Yes, I would certainly include that;
7 and certainly the most modern method of cargo handling
8 today, as a matter of fact, is where these containers
9 are just being carried off by these little trucks,
10 in and out of the ship; and you can just leave them
11 on the wharf; and this goes on without any supervision.
12 It is the fastest method that has been devised yet
13 in handling cargo.

14 Q. Did you say that this method is
15 limited to the coastal or inland trades?

16 A. To my own experience, I believe it
17 is limited to the coastal or inland trades, although
18 some foreign ships are using it now on a very much
19 smaller scale.

20 Q. Isn't it the fact that Canadian
21 Pacific has started such a system a few months ago
22 on their ocean trade?

23 A. Yes, they have; but it is not on a
24 very big scale, I don't think.

25 Q. But they have had a go at it?

26 A. Yes.

27 Q. So do you think this is the trend?

28 A. I foresee that it is the trend of
29 modern handling of cargo for the future.

30 Q. And the result is that the ships . . .

A. . . . spend less and less time in
port and more and more time at sea.



1
2 Q. With the result that the tasks of
3 the officers have become more and more heavy?

4 A. Yes, more heavy.

5 Q. More demanding?

6 A. Demanding, yes.

7 Q. Now, besides the tasks of looking
8 after the loading of the ships, the handling of the
9 ships, the manoeuvring of the vessel through canals
10 or in shifting berths in harbour, is it not a fact
11 that the officers of modern ships are called upon to
12 do more and more administration work -- paper work,
I would say?

13 A. Yes, it is a fact that there is more
14 paper work; the officers on board vessels do more
15 paper work.

16 Q. I don't mean child's paper work! I
17 mean paper work -- administration work?

18 A. Yes, administrationwise. There
19 are crews' wages to be compiled, the portage bills,
20 cargo manifestoes for the officers to check. These
21 are the ones that I can think of now. I may have
forgotten some.

22 Q. Has it been your experience, captain,
23 that when you board a ship as pilot you either notice
24 that the officers are tired, or they may mention to
25 you that they are tired, or that they are glad that
there is a pilot on board?

26 A. This has happened quite a few times,
27 where the master would say: "Well, I am glad I am
28 going to bed," or "Can I go to bed? So long; I will
29
30



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2 see you in the morning." Sometimes we don't see him
3 because he is too tired to get up. He just gets
4 the bill sent down by the officer of the watch and
5 he signs it and it is sent back by messenger and off
6 we go. This happens quite a lot.

7 Q. And you have had such remarks from
8 masters in the past?

9 A. Yes, I have had such remarks.

10 Q. Now, in your opinion also as a pilot,
11 when the change-over takes place in Quebec, as an
12 example, the pilot is being relieved either by the
13 downbound vessel or the upbound vessel. Is the
14 captain on the bridge to witness the change-over
of pilots?

15 A. In the downbound vessel it has been
16 my experience a few times where the master would not
17 get up to greet the pilot and the pilot would be
18 changed by the downbound officer of the watch. The
19 master doesn't get up. It has happened to me a few
times.

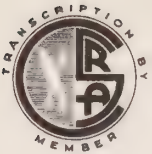
20 Q. Either upbound or downbound?

21 A. Mostly downbound.

22 Q. And therefore we have to assume that
23 he is a tired man?

24 A. If we see him the next day, or after
25 twelve or thirteen hours, he will say "I have had a
26 very good sleep," or "I am very happy you are aboard
27 and I hope we see you the next time." This is the
kind of thing.

28 Q. So I take it that by the contents of
29
30



1
2 these paragraphs we have just referred to you want
3 to convey the idea -- and correct me if I am wrong --
4 that it is not only a question of their being competent
5 men -- the officers are not competent -- but it is a
6 question of physical endurance in some cases?

7 A. Yes, that is right; it is physical
8 endurance in a lot of cases -- in most cases.

9 THE CHAIRMAN: And we have heard
10 about that in the St. Lawrence River, where there are
11 ships that are going to take pilots as a relief
12 measure.

13 MR. LANGLOIS: Yes; and I would refer
14 the Commission to the evidence of Captain Barry
15 in this court room when he said that in the large
16 districts the men were too tired because it is a
17 long run for them throughout the pilotage of the ship.

18 Q. Now, Captain Fournier, in paragraph
19 44 mention is made of the opposition voiced, or ex-
20 pressed, in the past by masters and mates, members of
21 the eastern branch of the Canadian Merchant Service
22 Guild, to their being called upon to perform pilotage
23 service. Would you care to elaborate on that?

24 A. Well, the masters and mates have
25 adopted many resolutions to the effect that they
26 didn't wish to have the added burden of piloting their
27 own ships in districts -- in certain districts -- in
28 the St. Lawrence River.

29 Some of these resolutions, Mr. Langlois,
30 we have with us, that were adopted at these meetings.

MR. LANGLOIS: Yes, I have here, my



1
2 lord, some examples of these resolutions in the form
3 of photo copies. They are certified as true copies
4 by Mr. Barry, who is the secretary, but I would
5 assume that if they should be identified Mr. Barry
6 could be called.

7 THE CHAIRMAN: That is all right.

8 ---EXHIBIT NO. 1388: Examples of resolutions
9 adopted by masters and mates
10 re pilotage in St. Lawrence
11 River.

12 THE WITNESS: I might mention, on
13 this paragraph, that a year and a half ago negotiations
14 were due with the Lake Carriers Association and some
15 of the mates voiced the idea, the opinion, that we
16 should have a clause in their contract stating that
17 they should not be obliged to do piloting in certain
18 districts.

19 Q. These were ideas brought up by the
20 mates, and we did, I believe, draw up something
21 to that effect for negotiation purposes with some
22 of the lake companies.

23 THE CHAIRMAN: I understand that the
24 negotiations for the contract of work -- the labour
25 contract -- do not affect the masters but only the
26 mates?

27 THE WITNESS: It does not affect
28 the masters.

29 THE CHAIRMAN: Except on the British
30 Columbia coast where it refers to the tug masters; is
that right.

MR. LANGLOIS: Yes, that is right.



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3 Q. I wish you to point out, when you
4 are referring to the resolutions passed at meetings,
5 that you are referring to meetings not only of pilots
6 but masters and mates?

7 A. Yes, masters and mates.

8 MR. LANGLOIS: And, my lord, I
9 think it was established yesterday, by the evidence of
10 Mr. Barry, that the masters and mates are a majority in
11 the Canadian Merchant Service Guild.

12 Q. Do you have anything to add in con-
13 nection with this paragraph 44?

14 A. No.

15 MR. LANGLOIS: My lord, we now come
16 to paragraph 44, which I have already referred to
17 and which your lordship has referred to in some of
18 the evidence already given before the Commission, and
19 I shall pass on from that paragraph for the time
20 being.

21 Paragraph 46 is just the conclusion
22 of what was said in paragraph 45.

23 Q. Finally, Captain Fournier, paragraph
24 47: Do you wish to confirm that it is the view of
25 the Canadian Merchant Service Guild that they support
26 the masters and mates who are engaged in coastal and
27 inland trades, in their position there?

28 A. Yes; paragraph 47, I think, states
29 pretty well that they get this support from the
30 overall membership of the eastern branch.

Q. And are there any further comments
you wish to make in this connection?

A. No, sir.

MR. LANGLOIS: Thank you.



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2
3 THE CHAIRMAN: Mr. Lalonde, do you
4 have any questions, or would you prefer to wait?

5 MR. LALONDE: No, I have no questions.

6 THE CHAIRMAN: Mr. Brisset:

7 CROSS-EXAMINATION BY MR. BRISSET:

8 Q. Captain, why do you say in paragraph
9 43 that the faster and larger modern vessels repre-
10 sent a greater traffic hazard in restricted channels?

11 A. You are asking me?

12 Q. Yes; why do you make this statement?

13 Q. Why?

14 A. Yes.

15 Q. First of all, it is a fact that
16 faster and larger modern vessels represent a greater
17 traffic hazard in the channel. It is said there.
18 The channel does not get any bigger, but the ships are.

19 Q. Let us speak of your District of
20 Quebec. You are offered to take an old Park ships
21 up the river, or, say, one of the Furness-Withy
22 ships, such as the MANCHESTER MARINER. Which of
23 the two would you choose if you were given the option?

24 MR. LANGLOIS: Do you mean as a
25 pleasure cruise?

26 MR. BRISSET: As a pilot. I under-
27 stand that Captain Fournier is a pilot.

28 MR. LANGLOIS: I thought you were
29 giving him a choice.

30 THE WITNESS: Well, truthfully, the
faster vessel, on a nice day, on a clear day, on a



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2
3 daytime passage, is what I would choose, yes.

4 MR. BRISSET:

5 Q. They do handle better than the old
6 Park ships?

7 A. Yes.

8 Q. They do have better navigational
9 equipment, generally?

10 A. Yes.

11 BY MR. JACQUES:

12 Q. On what type of ship did you sail
13 before becoming a pilot?

14 A. Well, I sailed on a foreign-going
15 ship -- a Park-type vessel. For maybe six or seven
16 years I sailed on them.

17 Q. And what was your rank on board?

18 A. Well, I sailed -- as this was the
19 first few years I went to sea I was there as an
20 apprentice -- a cadet -- and then third officer and
21 second officer. These were the ranks I held in
22 these ships at the time.

23 Q. And you were never a chief officer?

24 A. Not on foreign-going ships.

25 Q. But on coastal vessels, were you?

26 A. Yes.

27 Q. And what was the type of these
28 vessels?

29 A. Well, this one in particular was a
30 tanker where I was chief officer; and I have sailed
in canal-sized boats when the Seaway wasn't open; I



1
2 sailed on canal-sized lakers.

3 Q. And when you were chief mate of a
4 tanker did you have to do any ship handling?

5 A. Not as chief officer, no.

6 Q. So you took pilots then?

7 A. That is right.

8 Q. On a tanker?

9 A. Yes.

10 Q. And Imperial Oil tanker?

11 A. Irving Oil.

12 Q. And where did she trade?

13 A. She traded from Three Rivers down to
14 the east coast as far as Newfoundland.

15 Q. Now, based on your actual knowledge
16 of pilotage regulations was she then subject to the
17 payment of pilotage dues? Can you tell us whether
18 she was then an exempt ship, or not?

19 A. We used pilots; I forget the exact
20 tonnage, really. I believe she was somewhere around
21 fourteen.

22 Q. Have you worked on the lakes?

23 A. Yes, I did.

24 Q. On canal-sized vessels?

25 A. Yes.

26 Q. And what was your rank on them?

27 A. I was third officer.

28 Q. And did you have to do any ship hand-
29 ling as third officer?

30 A. No, I never did.

Q. And who did the ship handling?



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A. The master.

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Q. The mate?

4

A. I don't recall.

5

Q. But the master did the ship handling?

6

Thank you.

7

MR. LANGLOIS.

8

Q. A comparison was made, Captain

9

Fournier, by Mr. Brisset as between a Manchester ship
and a Park ship. Isn't it a fact that a Manchester
ship is a turbine ship while the other has reciproca-
ting engines?

10

11

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A. Yes, I believe that is a fact. I

13

have not been on the latest type of Manchester ship
mentioned by Mr. Brisset, but I believe they are
turbines; but I can't say for sure.

14

15

16

Q. What is the difference between the

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turbine ship and the reciprocating engine ship so
far as moving is concerned?

18

19

THE CHAIRMAN: Well, I think that
was explained very well when we were in St. John's,
and we know very well what is going to happen.

20

21

MR. LANGLOIS: I wanted merely to
point up the differences.

22

23

THE CHAIRMAN: Yes; we know them.

24

MR. LANGLOIS:

25

Q. Did you ever act as a master in the
coastal trade?

26

A. I did.

27

THE CHAIRMAN: We will now have our
recess.

28

29

---Short recess.

30



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2 ---Upon resuming.

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4 MR. LANGLOIS: My lord, before I
5 proceed with the next chapter I wish to remark that
6 I have not examined the previous witness Captain
7 Fournier in connection with paragraph 43, but my
8 intention was to refer the Commission to the evi-
9 dence given yesterday in connection with under-keel
10 clearance which established in my mind that larger
11 vessels were greater traffic hazards. That is why I
12 did not ask Captain Fournier to answer any questions
13 on this.

14 THE CHAIRMAN: You may refer also
15 to the evidence of Courteney Bay.

16 MR. LANGLOIS: Thank you, my lord.
17 The next chapter is the one dealing
18 with local port authorities at pages 22, 23 and 24
19 and the witness will be Captain Hamelin.

20 CAPTAIN ORANCE HAMELIN, recalled, sworn

21 DIRECT EXAMINATION BY MR. LANGLOIS:

22 Q. Since you have already been called as
23 a witness before this Commission I will dispense with
24 asking you your qualifications and experience, Mr.
25 Hamelin, and I will turn right away to paragraph 48 of
26 the chapter entitled Local Port Authorities.

27 In paragraph 48 the view is expressed
28 that the National Pilots Committee is opposed to the
29 recommendation that pilotage should be taken over by
30 the management of the Port of Montreal. Would you
care to elaborate on that, Mr. Hamelin?



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3 A. Well, as it has been said before,
4 I think pilotage should be administered as a com-
5 plete independent service and I do think that the
6 National Harbours Board and the Montreal Harbour
7 authorities have enough to do right now without
8 trying to take over pilotage. I do not think it
9 would improve the service; on the contrary.

10 Q. In paragraph 49 and for that matter
11 in 50 you mention the possibility of confusion and
12 delays resulting from the taking over of pilotage by
13 the port authorities. Would you have anything to
14 add in this respect besides what is already mentioned
15 in these paragraphs?

16 A. No, I think it is quite complete
17 here. But if I may suggest that the port authority
18 should have meetings more often with pilots con-
19 cerned in their different districts about the inten-
20 tion of improvements or alterations in the ports . . .
21 Sometimes we are not acquainted with it until it is
22 really too late. We should be kept posted a lot
23 better than we are at the present time.

24 Q. You are referring in saying this
25 to port regulations in particular?

26 A. Not only regulations, alterations.

27 Q. Alterations?

28 A. Alterations in the port also, you see
29 -- dredging intentions and different items that the
30 pilots should be informed of or consulted on before
they go ahead with it.

Q. I do not know if you were in Montreal



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3 when the representatives of the Management of the
4 Port of Montreal were called to give evidence in
5 support of this recommendation and mention was made
6 of an accident which occurred last fall, the collision
7 between the LIONEL and the MANCHESTER MERCHANT, and
8 there was a question of the delay in one of the ships
9 (I think it was the LIONEL) in leaving her at berth.
10 What would you suggest as a possible remedy to a
11 situation like that happening again, for the preven-
12 tion of such a delay?

13 A. The person despatching in Montreal
14 Harbour should be able to judge the difference between
15 sailing a ship in September and sailing a ship at the
16 end of November or December where the conditions are
17 so drastically changed, you see. It takes you
18 maybe three or four times the normal time that you
19 take in summer time to get a ship away from the
20 wharf due to the lines being frozen and the diffi-
21 culties in taking them in, and everything. So they
22 should allow more time for the ship to get away from
23 the wharf and not think that it is summer time.

24 Q. Would you then go along with the
25 suggestion which was then made when permission is
26 requested by a ship to shift berth or to leave any
27 berth in the harbour she should first be asked to
28 single out and report as having singled out and then
29 be given fifteen or twenty minutes' delay to do the
30 move of leaving the berth? Would you go along
with that?

A. It would be a very good idea, sir.



1
2 this

3 Q. I assume this is what you have in
4 mind when you say that the matters of operation of
5 the harbour and the regulations should be done in
6 consultation with the pilots?

7 A. Yes, this and also the alterations
8 in the harbour -- alterations or improvements or
9 buildings, you see. You take now they are building
10 this tunnel at Longue Pointe. Last year we had been
11 consulted on two or three different occasions. You
12 see, they intended to close the channel so much one
13 way and then at a different period close it the other
14 way and they wanted to know what the pilots thought
15 about it. I think it is a good idea that this
16 should be done regularly for any alterations they
17 are going to do to the channel or to the wharves in
18 the harbour -- in any of the National Harbours Board
19 places.

20 Q. In the same line of thought do you
21 recall as to whether or not the pilots were consulted
22 when, I think it is two or three years back, part of
23 the channel off Southern Pier was blocked due to the
24 salvage operation of a ship that had sunk, the
25 FEDERAL EXPRESS? Do you remember if you were con-
26 sulted when these restrictions or modifications to the
27 channel were done?

28 A. I want to be fair, I believe there
29 was some consultation because then it was more or
30 less traffic control, you see. Ships downbound had
priority over upbound ships, you see, and I think
really in that case there were consultations.



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3 Q. So if I understand you correctly
4 there have been such consultations but not enough in
5 the past?

6 A. Not enough, no. You see, the
7 trouble in Montreal Harbour -- I think Mr. Oppen
8 mentioned it; or at least he did to me -- there are
9 two groups of pilots operating in the harbour, you see,
10 and sometimes they will consult the Montreal Harbour
11 pilots and they will forget to call the river pilots,
12 who are working in Montreal Harbour also. So this
13 should be taken into consideration, the two groups
14 working in the harbour, and they should both be con-
15 sulted.

16 Q. The river pilots and the harbour
17 pilots?

18 A. Yes.

19 COMMISSIONER SMITH: Captain Hamelin,
20 I would like to ask you a question, if you will excuse
21 me, Mr. Langlois?

22 MR. LANGLOIS: Yes, go ahead.

23 COMMISSIONER SMITH: I can understand
24 your concern, Captain, with regard to the lack of
25 conferences and exchange of information in the matter
26 of operations and regulations and alterations and
27 other **aspects** of the overall operation of the harbour and
28 all its ramifications, but the harbour master of
29 Montreal thought that by the National Harbours Board
30 taking over pilotage it would do away with a dual
authority. My question is this: would that help cure
some of those complaints that you have just mentioned



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3 with regard to the lack of exchange of information
4 and conferences, getting information about alterations
5 and all other aspects of the harbour operation?

6 THE WITNESS: Well, Mr. Commis-
7 sioner, I think if the National Harbours Board and
8 the Montreal Harbour Authorities keep pilots posted
9 up-to-date with any changes or any alterations, I
10 do not think there will be any trouble about pilots
11 operating independently from the National Harbours
12 Board.

13 COMMISSIONER SMITH: I should have
14 said that the dual authority was only in certain minor
15 aspects of the harbour operation. It did not go up
16 into the higher levels of the harbour operation.

17 All right, thank you, Captain.

18 MR. LANGLOIS:

19 Q. Is it not a fact that at present
20 difficulties are experienced in the despatching of
21 traffic by the port authorities at Montreal because
22 they are undermanned and there are frequent delays
23 in obtaining permission or directives from the harbour
24 master?

25 A. Yes, we have many complaints about
26 this. I believe some ships could be away in lots of
27 time where another is proceeding to a certain area
28 of the harbour, you see, but I do not know, I believe
29 they are trying to control this so tightly that it is
30 causing a lot of delay.

Q. Do you think that the despatching
of pilots could be handed to the control of traffic



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3 now being performed by the harbour master's office
4 in Montreal?

5 A. Oh, no, it would be worse than ever.

6 Q. Do you see, Captain Hamelin, any con-
7 nection between the despatching of traffic -- the
8 direction, I should say, of movements of ships in the
9 harbour of Montreal -- and the qualifications of
10 pilots and things of that kind?

11 A. No, it is completely different.
12 You see, the traffic control, he is told to send
13 a ship to such a berth. He does not know what com-
14 plications or what difficulties may arise at that
15 berth. You see, the pilot is the one that should
16 know, not the dispatcher.

17 Q. Is it not also a fact that beside
18 directing the movement of ships with pilots on board
19 the same branch of the administration, to wit the
20 harbour office, also directs the traffic of ships
21 having no pilots on board?

22 A. Yes, of course. Yes, oh, yes, with
23 coasting ships.

24 Q. Is it not a fact that they have no
25 more authority or control **over** these ships than they
26 have over ships carrying pilots?

27 A. That is right.

28 Q. There is mention made of the possi-
29 bility of confusion or conflict of jurisdiction, I
30 should say, as between the Seaway Authority and the
Management of the Port of Montreal. What do you have
in mind when you say that?



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3 A. Well, I believe I mentioned it once
4 before, you know, and of course I have been told that
5 it was not so. But you take the Seaway Authority;
6 irrespective of whether they will chase the ship out
7 of the Seaway, the Harbour of Montreal say that due
8 to fog or something they will try and keep traffic
9 at a stop, and yet the Authority wants the ship out of
10 the Seaway. It is not right. They should syn-
11 chronize their signals so everything will stop, you
12 see, whether they are in the Seaway or not, whether
13 they are in a lock or not.

14 Q. In paragraph 52 mention is made that
15 a similar position is taken in regard to any other
16 port authorities throughout Canada. Is that the view
17 as expressed by the National Pilots Committee, that
18 this should also apply to other port authorities in
19 Canada?

20 A. Yes, that is my understanding.

21 MR. LANGLOIS: Thank you.

22 THE CHAIRMAN: Are there any further
23 questions on this?

24 CROSS-EXAMINATION BY MR. BRISSET:

25 Q. Captain Hamelin, would you think there
26 would be advantage in having only one set of pilots
27 operating in the harbour of Montreal instead of two
28 different groups?

29 A. No, I do not think so. You see ---

30 Q. Why?

A. Well, it would not improve the con-
ditions of traffic, or anything. You see, we have



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2 always done what is being done today -- on a different
3 system, if you like. In the old days instead of
4 having two groups of pilots it was the same group of
5 pilots who were river pilots and harbour pilots at
6 the same time, you see. But I do not see that you
7 would have all harbour pilots and no river pilots
8 coming in the harbour. I do not think it would
9 change anything.

10 Q. Would you not agree that it was
11 found necessary to have harbour pilots when this
12 group was formed in 1957 or 1958 just before the
13 Seaway was opened?

14 A. Yes, for the simple reason that we
15 were short of manpower; we did not have enough men.
16 You see, besides doing the river work I was doing
17 over one hundred shiftings in Montreal harbour and
18 I was living outside of Montreal. So you can imagine
19 the pilots who were resident in Montreal. They were
20 sometimes doing nearly two hundred shifts in the
21 harbour besides doing their river work. It was impos-
22 sible to carry on that way. That was the idea of
23 trying to get men especially to shift the ships around
24 the harbour.

25 Q. Do you foresee that the profit in
26 the harbour of Montreal is going to increase in the
27 next few years, particularly if they build this steel
28 mill in the vicinity of in between Contrecoeur and
29 Sorel?

30 A. I hope so, Mr. Brisset. I hope so for
the welfare of the country and the pilots.



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MR. LANGLOIS: They both go together,

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I think!

4

MR. BRISSET:

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Q. When you gave us your views on the
question I asked you about restricting pilotage in
the harbour of Montreal to the harbour pilot group,
were you giving us your views as a river pilot, as
representing the harbour pilots, or as representing
the Guild?

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2 A. As river pilot or as ---

3 MR. LALONDE: Or as what? Which
4 hat were you wearing?

5 THE CHAIRMAN: Here again I am just
6 wondering whether the foremost principle is not too
7 rigid. I think Montreal Harbour may be a very bad
8 example to take to test the principle. There are
9 many conflicts there in Montreal. We have two
10 groups of pilots, the river pilots and the harbour
11 pilots. It is not merely harbour piloting; it is
12 river piloting also.

13 MR. LALONDE: And it is transit
14 harbour.

15 THE CHAIRMAN: Transit harbour also.
16 We have other places -- we heard about Hamilton and
17 Toronto. We had harbour pilots in the Lakehead for
18 a while, organized by the local harbour authority
19 there because there was a need. We have seen Seven
20 Islands; we have seen Port Cartier and Baie Comeau,
21 where really the harbour authority is organizing
22 river pilotage.

23 I was just wondering whether it
24 should not be flexible enough to have harbour authori-
25 ties to be the pilotage authority at some places,
26 and that the criterion would be to find out whether
27 there are conflicts of interest between the two
28 duties or community of interest. In the harbour of
29 Montreal this is a special case. I am wondering
30 about the others. Halifax is another place. Halifax
is a place where there could be possibly a port



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3 authority being pilotage authority. We were
4 talking about traffic control. Traffic control
5 has a different meaning from one place to another.
6 In Saint John, New Brunswick, for instance, traffic
7 control, by the very nature of the harbour, becomes
8 quite a problem, and then it has to be pilotage
9 authority or the pilots doing traffic control while
10 in some other places they are just merely policing.
11 You know, policing traffic because pilotage can be
12 done at all times, and we have ships with pilots and
13 ships without pilots, and so it differs.

14 I am just wondering whether the
15 principle as proposed here is not too rigid.

16 MR. LANGLOIS: My lord, every port
17 has its own problems and its own peculiarities. Your
18 lordship just gave an example of Halifax, but we must
19 not lose sight of the fact that in Halifax there are
20 two port authorities; you have the Queens harbour
21 master and you have the harbour master appointed
22 by the National Harbours Board.

23 THE CHAIRMAN: Yes.

24 MR. LANGLOIS: **And** a good deal of the
25 port, and probably if not the majority, the larger
26 volume or a very high percentage of the volume of
27 traffic comes under the Queens harbour master, and if
28 one of these authorities is made a pilotage authority
29 there might be some conflicts.

30 Having been in the Navy I know the
Navy is not ready to take lessons from anybody. They
are pretty supreme in their own ways, but it does just



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2 show, my lord, each situation has to be studied on
3 its own merits.

4 THE CHAIRMAN: That is why I took
5 exception to your paragraph 62 where it applies to
6 all port authorities throughout Canada.

7 MR. LANGLOIS: There might be an
8 exception. I can't see the objection to, for
9 example, the case of Seven Islands your lordship
10 mentioned. There you have a very small volume of
11 traffic and pilotage is done in one section of the
12 harbour, to wit, the section of Pointe aux Basques
13 which is being used by the Iron Ore Company at the
14 Town wharf at Seven Islands, at the Mgr. Blanche
15 wharf there is no pilotage system at all. No
16 ship has to take a pilot. It is only for that
17 part of the harbour which is being administered
18 by the company.

19 In the case of Port Cartier, that
20 is another place altogether. It has a private
21 wharf, and so on.

22 The rules are made, but there
23 are also exceptions that could be made. I would
24 think in small ports there might be room for con-
25 sideration -- there should be consideration given
26 I should say to making an exception in small har-
27 bours.

28 MR. JACQUES: There is already, my
29 lord, one place in Canada where the port authority is
30 also the pilotage authority, and that is in St. John's,
Newfoundland, where a system of dual authority does



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3 now exist.

4 MR. LANGLOIS: I understand my
5 friend wants to do away with that.

6 THE CHAIRMAN: That is right.

7 MR. LANGLOIS: So we have the
8 support of the department.

9 MR. JACQUES: The pilots don't want
10 to do away with it.

11 MR. LALONDE: I would like to
12 point out, my lord, the question has another aspect
13 and which is the general theory on what pilotage
14 should be as it is set up. In most countries that
15 I know of pilotage is never confused with harbour
16 administration. They have always adopted a
17 separate set-up.

18 THE CHAIRMAN: But you don't know
19 why. There might be a conflict of interest. If
20 there were a community of interest, no doubt they
21 would have mingled.

22 MR. LALONDE: At first sight one
23 could always imagine there could be conflict of inter-
24 est as far as pilotage control is concerned. I
25 would not call it an immediate direct conflict of
26 interest, but as soon as you have administration of
27 pilotage in one harbour doing it one way, and in
28 another harbour another Authority who will decide how
29 it is going to be done, you end up with uselessly
30 varying rules from one place to another and lack of
coordination in the operation of pilotage in the
country itself.



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3 THE CHAIRMAN: Isn't the reason
4 behind all that underlying principle of pilotage that
5 it is a service for shipping and not a service for
6 ports?

7 MR. LALONDE: I think you have a
8 point.

9 THE CHAIRMAN: And that the port
10 Authority should not make any difference. They are
11 dealing with the master; they are not dealing with
12 the pilot, and whether he is provided with a pilot
13 or not, this is not their concern.

14 MR. LALONDE: I think you have a
15 point there, my lord. That is why I say there is
16 another aspect to it than the mere decision on
17 individual cases. I just wanted to point this out.

18 THE CHAIRMAN: So we always come
19 to the question of safety of the ship or compulsory
20 pilotage.

21 MR. LANGLOIS: Thank you, Mr. Hamelin.
22 ---The witness retired.

23 MR. LANGLOIS: My lord, the next
24 chapter is one entitled Pilot Boats, pages 25 and 26,
25 paragraphs 53 to 56. Captain Cobham will be the
26 witness.

27 CAPTAIN R. V. COBHAM, sworn

28 DIRECT EXAMINATION BY MR. LANGLOIS:

29 Q. Since you have been called as a
30 witness before, I will dispense with the opening
questions as to your residence and qualifications,
and sea experience, Captain Cobham, and I will ask



1
2
3 you to state right away what is meant in paragraph 53
4 where it is stated that pilot boats cannot be
5 standardized.

6 A. Well, my lord, we will start with
7 Saint John first. Pilot boats suitable for Sydney
8 or Halifax would not be suitable for Saint John owing
9 to our shoal water. I would like to speak for our
10 own port only. About three years ago the department
11 sent a plan down, a line plan for a steel pilot boat,
12 which the Pilot Committee condemned. Nevertheless
13 the vessel was brought to Saint John. We had her
14 for approximately one week and the vessel was not
15 suitable. At the present time I understand it is
16 at Escoumains.

17 Q. Would you mean that those boats
18 cannot be made interchangeably?

19 A. Not interchangeable, definitely not.

20 Q. Have you got any special remarks to
21 make in connection with the pilot boats presently
22 being used in your district or in the Halifax or
23 Sydney district?

24 A. Well, at the present time we are
25 using the Halifax pilot boat in Saint John. It is
26 suitable for this time of the year, but not for heavy
27 weather. It is definitely not suitable for our
28 port.

29 Q. Why?

30 A. Well, it has too shallow draught,
insufficient length for the sea that we have there.
Underpowered. Square stern, which is hard for us
to get away from the ship. We have found that



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3 difficulty -- our captains have found that difficulty
4 with the area that we are in. That is about it.

5 Q. You are not, of course, referring
6 to the boat that the Commission made the tour of the
7 harbour on when we were in Saint John a year ago?

8 A. The Halifax pilot boat.

9 Q. The boat you are using?

10 A. Our pilot boat is under refit..

11 Q. That is why you have the Halifax boat
12 in the meantime?

13 A. That is correct.

14 Q. What about the boats being used in
15 Halifax?

16 A. I have no knowledge about the boat
17 being used in Halifax.

18 Q. No knowledge?

19 A. No.

20 Q. Paragraph 54 mentions an example
21 of the pilot boat used in St. John's, Newfoundland,
22 district. What have you got to say in this respect?

23 A. I have been on board that pilot boat.
24 In fact, I boarded her at Sydney. That boat is
25 definitely not suitable for St. John's, Newfoundland
26 pilots.

27 MR. LANGLOIS: We have had evidence
28 to that effect when we were in St. John's, Newfound-
29 land, and I assume it is not necessary to call a
30 witness to repeat what has been said.

THE CHAIRMAN: And we had this in
British Columbia and Escoumains also.



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MR. LANGLOIS:

Q. This disposes of paragraphs 54 and 55. In paragraph 56 you refer to some way of establishing discussions between the department and the various pilotage districts in connection with the building or supplying of pilot boats.

Do you mean that before any decision is made as to the building of new boats the pilots should be consulted, or what do you have in mind there?

A. Yes, that steel pilot vessel --the number I don't recall now -- as I said before the line plan was sent to Saint John and the Saint John pilots turned her down, but nevertheless they built her for our port, and the vessel was definitely not suitable.

Q. Yes, go ahead.

A. I have finished.

Q. Do you have anything to add in connection with this chapter, Captain Cobham?

A. Well, in all districts the pilot committee should be consulted with the department prior to the construction of the vessels.

Q. Would this go as far as supplying preliminary plans, construction plans?

A. That is right.

Q. My lord, before the witness leaves the box -- yesterday you made reference to the eventual retirement of Pilot Miller in Saint John. I understand that you have some further comments to



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3 make in this respect on the basis of information
4 received since yesterday?

5 A. Yes. My lord, I was talking to
6 Saint John last night, and Pilot Miller is retiring
7 the end of this month. It is not adequate for
8 our port; it is coming into winter now and we have
9 asked for Pilot Bouthiller for the last three years
10 so he can gather experience before Pilot Miller
11 went off, and the department didn't deem it neces-
12 sary to put him on.

13 MR. LANGLOIS: Thank you.

14 THE WITNESS: One thing I would like
15 to further add, Mr. Langlois, as his lordship has been
16 out in our pilot boat, the pilots have condemned
17 our radar from the day it was installed aboard the
18 vessel. It is still very little assistance to the
19 captains of our vessel, and his lordship **observed**
20 by looking ^{the} in PPI, looking at the picture, the
21 picture faded. The same thing has happened today.
22 You might have it for five minutes and lose her,
23 and back to the technicians again. That is abso-
24 lutely no good for our district.

25 Q. How long has this situation prevailed?

26 A. Since the instant it was installed
27 in 1957, my lord.

28 Q. Is it a case of defective equipment?

29 A. Defective.

30 Q. Or equipment that is not suitable?

A. No, it is defective.

THE CHAIRMAN: I recall we were



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Cobham, dir
(Langlois)

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2
3 told that the situation was better with new tech-
4 nicians looking after it.

5 THE WITNESS: It has not improved
6 any.

7 MR. LANGLOIS: Thank you, Captain
8 Cobham.

9 THE CHAIRMAN: For a change I am
10 not making any comment on this chapter.

11 MR. LANGLOIS: My lord, Captain
12 McLeese has informed me that he would have a few
13 comments to add to what has already been said in
14 connection with pilot boats on the west coast, and
15 I will ask him to take the stand.
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CAPTAIN R. McLEESE, Sworn

DIRECT EXAMINATION BY MR. LANGLOIS:

Q. Would you please give your place of residence and profession?

A. Vancouver, British Columbia; and I am a pilot in the British Columbia Pilotage District.

Q. Would you please state your qualifications as a mariner and a pilot?

A. I hold a home trade master's ticket and I am a licensed pilot in the B. C. Pilotage district.

Q. How long have you been a pilot?

A. Twelve years.

Q. And you are in the British Columbia coast pilotage district?

A. Yes.

Q. In paragraph 55 of the brief mention is made of the pilot boat situation in your pilotage district. I understand you have some further comments to make. Will you please go ahead?

A. Well, I would like to concur with everything that Captain Cobham has said.

We have a situation at Triple Island that is not good at all. It has been going down-grade, I would say, a little more each year, and we are entering into another winter there.

We have these armoured tugs and three of them are licensed to carry pilots, having been licensed by the department; but they are not satisfactory when the weather gets bad, and we have had four



1
2 very close calls where the pilot boat . . .

3 THE CHAIRMAN: Lately?

4 THE WITNESS: Within the last four
5 or five years.

6 I think it is now time that something
7 was done. The traffic is getting heavier there each
8 year, not only for Prince Rupert but for Ocean Falls,
9 Kitimat and also Vancouver sometimes.

10 THE CHAIRMAN: Through Triple
11 Island?

12 THE WITNESS: Through Triple Island,
13 yes.

14 MR. LANGLOIS:

15 Q. Do you have a similar situation
16 with other boarding off stations?

17 A. We don't have the same problem at
18 other boarding off stations because we have a nine-
19 mile run out over open water to get to Triple Island.

20 These tugs are quite old, forty feet
21 and underpowered. Their power is good enough for a
22 small tug, but they won't handle in heavy weather at
23 all.

24 When they are in use towing some-
25 times we can't get those and we have to take something
26 from the outside, which is another small tug of some
27 kind.

28 Q. Do you have anything further to add?

29 A. No, I don't think there is anything
30 further on the situation except that we are not
looking forward to this winter again with so many



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3 trips out, and we would like the department to do
4 something as soon as possible.

5 I have on file here letters that
6 were written back and forth in 1957-58 when I
7 was on the committee before, and we also have
8 letters -- answers -- by the department, and it got
9 to the stage of drawing out plans -- looking at plans
10 at that time -- but they never did send a man out.
11 It is only about three weeks ago that Mr. Torrance
12 from the department came out and said they were
13 starting to look at the plans. But this is after
14 six or seven years.

15 Q. When you speak of plans did you
16 mean construction plans that have been submitted to
17 you for approval?

18 A. Yes, they are not the final plans
19 -- not the final drawings. They were drawings of
20 the type of pilot boat as to what size, what horse-
21 power they would put in, the style, and everything
22 like that. We looked them over in Vancouver and
23 suggested a few changes in them, but I don't think
24 they ever got to the drawing board finally.

25 Q. May I assume that these were merely
26 general arrangement plans of some of the main aspects?

27 A. For accommodation and equipment of
28 pilot boats.

29 These tugs that go out to Triple
30 Island have no radar at all, and there have been two
or three occasions when the pilot boat couldn't get
back in and they had to run for shelter at Dundas



1
2 Island.

3 Maybe your honours would see these
4 boats when you were out there . . .

5 THE CHAIRMAN: We saw one, at least.

6 MR. LANGLOIS: It was freshly painted.
7 I understand.

8 THE WITNESS: Yes. I have worked
9 on these pilot boats and I was pretty crushed between
10 the housework that came right up against my back; this
11 has happened to us when the pilot boat falls back in
12 heavy seas. There is not a proper boarding place.
13 The decks are usually cluttered out with towing wires
and everything.

14 MR. LANGLOIS: As your lordship will
15 recall, when the ship was visited it had been painted
16 the night before in anticipation of the visit -- very
17 clean and with fresh paint.

18 Q. You say that these are not equipped
19 with radar. What about a sounding machine?

20 A. They have a sounding machine, yes.
21 In the particularly shallow water they use that. They
have a sounding machine.

22 Q. Do you have anything further to add?

23 A. No, I don't think I have.

24 THE CHAIRMAN: We had some evidence
25 on the department's view of this in June, you may
26 recall, from Captain Slocombe.

27 MR. LANGLOIS: Yes. Thank you,
28 Captain McLeese.
29
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THE CHAIRMAN: Yes; we will

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adjourn now since you are taking another subject.

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We will adjourn until two-thirty this afternoon.

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---Luncheon adjournment.

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2 ---On resuming at 2.30 p.m.

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4 MR. LANGLOIS: My lord, we will
5 now deal with the paragraph entitled Detention,
6 Cancellation and Moveages, pages 27 and 28, and
7 I call on Captain Dussault to take the stand.

8 CAPTAIN L. M. DUSSAULT, recalled, sworn

9 DIRECT EXAMINATION BY MR. LANGLOIS:

10
11 Q. Since you have appeared as a witness
12 before the Commission previously, captain, I will
13 dispense with asking you the usual opening questions
14 as to your place of residence and your qualifications
15 as a mariner and pilot, but I would like you to
16 state to this Commission the function that you are
17 now filling in connection with the organization of
18 Canadian Merchant Service Guild.

19 A. I am a member of the Management
20 Committee and I represent the District of Quebec
21 as one of the district vice-presidents. But I must
22 say here that I represent not pilots as such but
23 all members of the organization in the Quebec District;
24 that is, masters, mates and pilots.

25 Q. Captain Dussault, I wish now to refer
26 to paragraph 57 dealing with detention, cancellations
27 and moveages. Would you care to explain what is
28 meant by the recommendation that these charges
29 should be standardized?

30 A. Well, here I think I should sort of
elaborate on this that when we talk about standardiza-
tion we mean on a minimum charge. We don't mean



1
2 to imply that all the moveages in all the ports of
3 Canada should be exactly at the same rate. We
4 understand that the moveages in one port might be a
5 matter of a fairly short time and distance and
6 wouldn't imply too much work or responsibility,
7 while in another port it might imply three or four
8 times as much time and work and responsibility.
9 So that we are speaking, specifically, of the
10 minimum charge to be standard in Canada. Some
11 districts have a minimum charge which is as high
12 as \$50 and in other places it might be \$15 or \$13,
13 which, I think, doesn't make much sense as a minimum
charge.

14 The districts should be standardized
15 and operated according to the importance of the
16 moveages, taking into consideration the various
17 factors of the vessel concerned and the time and
the work and everything else.

18 Q. Would distance be a factor to be
19 taken into account?

20 A. Well, I think distance maybe not as
21 such, but distance will usually involve time. I
22 mean, if you are going to use a pilot for the better
23 part of a day, or half a day, then the charge would
24 be a little over what it is on a moveage that might
take 45 minutes to do in some ports.

25 Q. Now, in paragraph 58 reference is
26 made to the fact that the charges are low and bear
27 no relation to factors such as the manoeuvre-
28 ability of the ship concerned and the remuneration
29 of the pilots concerned. Would you elaborate on
30



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2 that, please?

3 A. Well, I think that the Quebec Har-
4 bour moveage charges right now, as they have been
5 right now and for many years, perhaps can exemplify
6 the point here. I believe that a pilot can be on
7 moveages here where the moveages might take as much
8 as three to four hours. They might entail one or
9 two dockings and even going through lock gates and
10 moving through basins; and the pilot has under his
11 charge a vessel worth many millions of dollars,
12 so that the safety of the ship and other vessels
13 close by is involved; and there is the cargo which
14 might be worth quite a bit, too, which is involved;
15 and for about four hours' work the pilot will get
16 something like \$25.

16 I think the price here today might
17 have been all right many years ago when it was first
18 instituted, but I believe that the price is very
19 inconsistent with the responsibility involved.

20 This would be what this paragraph
21 more or less is trying to show up.

22 Q. Would the remarks you have just
23 made be applicable to other districts, to your know-
24 ledge?

25 A. I am sure they must apply, from what
26 some of my pilot friends have told me, in most places
27 in Canada, with very few exceptions.

28 Q. Now, I refer you to paragraph 60.
29 Evidence, my lord, has already been given in connec-
30 tion with the presentation of the brief as submitted



1
2 by the St. Lawrence Federation of Pilots, and I would
3 merely ask the witness if he has anything further to
4 add to what has already been said?

5 A. No; as a matter of fact I think
6 this was dealt with -- Captain Dussault and I dealt
7 with this in Montreal and Quebec, and it was dealt
8 with very extensively, and I would think that the
9 Commission has had all the evidence on that subject.

10 Q. Have you any further comments to add,
11 captain, on this chapter?

12 A. I would only add this comment, that
13 this subject of detention, cancellations and move-
14 ages is not a new subject. We have brought it up
15 repeatedly in former meetings with our friends of
16 the Shipping Federation with, I may say, not too
17 much success for the Quebec pilots.

18 This is one of the main reasons why it
19 is mentioned here. I think it really is quite time
20 that it should be looked into.

21 MR. LANGLOIS: Thank you, captain.

22 CROSS-EXAMINATION BY MR. BRISSET:

23 Q. Captain, in paragraph 58 there is
24 a reference to the charge, or charges, applicable to
25 moveages bearing " . . . no relation to the factors
26 of penalty to the ship concerned . . .". I assume
27 that is not intended to convey that the charge for
28 moveage should be considered as a penalty on the
29 ship?

30 A. No, this is just an unusual choice
of words, I would say, on the part of the person who



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drafted this.

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Q. The detention is intended to be a
penalty on the ship?

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A. Yes.

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Q. As well as the cancellation?

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A. Yes, that would be correct.

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Q. I now refer to paragraph 60. Why
would you want to penalize the ship if the ship is
detained by stress of weather or ice conditions?

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11

A. Well, your lordship and Mr. Brisset,
as I said before, at Quebec and Montreal -- both
Captain Rousseau and myself -- this would only
apply in what is called the winter navigation
period, and I think we brought concrete examples
of these happenings, where the ship's master will set
his ETA to Escoumains for any time -- say noon to-
morrow. Of course, in the winter time the
despatcher is not going to take any chances. He
will get two pilots on the bus, or whatever is the
transportation so that they will get there in time
if they are delayed in their transportation; but what
happens then is that the ship gets caught in the ice
fifteen or twenty miles below Escoumains and it
would happen that the pilot would be there for the
best part of two or three days.

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I don't think it is fair, during that
period of winter navigation, when all the interested
parties know about the conditions and that these
things do happen and will happen -- I think that the
pilot should be sort of compensated. I don't think



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2 the compensation is so high at present.

3 Q. In other words, you don't want to
4 penalize the ship with the detention charge, and
5 there will no longer be a penalty on the ship? Is
6 that what you want to convey?

7 A. No; it is just that I think that the
8 pilot is at least due enough money to cover his own
9 out-of-pocket expenses which are just about the
10 amount of the detention charge, which is a maximum
of \$25 as it stands now.

11 I don't think it is unfair on our
12 part during that part of the season to ask for that.

13 Q. As regards detention at the Seaway
14 entrance, for which the St. Lawrence pilots are now
15 getting the detention charge -- do you consider that
16 a penalty to the ship?

17 A. I don't think I can answer that which
18 is a specially local problem; and I wouldn't like to
19 speak for other people who are more conversant with
this problem.

20 CROSS-EXAMINATION BY MR. LALONDE:

21 Q. Captain Dussault, I think that one
22 of the examples you gave so far as detention is con-
23 cerned might be quite proper, but if I remember well
24 the recommendation of the St. Lawrence River pilots
25 was, indeed, that during that period there would be
26 detention paid for stress of weather or ice conditions,
27 but that it would apply only while the pilots were
28 on board the ship. Do you get at the present time
29 any remuneration while awaiting the assignment?
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A. No, we don't; we don't, in any case, right now; so it is my impression that it would be applicable on both instances, either if the pilot had to wait if the ship was detained before arrival, or she was detained even while the pilot was aboard through ice conditions.

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MR. LALONDE: Thank you; I wanted to clarify that.

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THE CHAIRMAN: The fact is that it applies to where the pilots have to wait for the ship because of stress of weather or the presence of ice?

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THE WITNESS: Yes; this is what we say. If you read that paragraph it is specified only in the winter navigation months.

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THE CHAIRMAN: So that this isn't considered as a principle to apply all across the board?

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THE WITNESS: No; and it is in here in black and white that it is only in the winter navigation months and not during the usual season of navigation.

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THE CHAIRMAN: I am a little troubled by the varying meanings given to the word "cancellation." You spoke of penalties. What do you mean by "penalty" there?

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THE WITNESS: I think I should start by explaining that so far as in our district we consider a cancellation is when a definite order has been sent in to the despatcher -- an order by the



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2 ship's agent or captain -- and a pilot is despatched
3 on board the ship and he presents himself to the
4 master and at that moment, when he has reached the
5 vessel and reported -- the pilot has gone on board
6 the vessel -- and at that moment he is told there
7 is something wrong -- there might be engine trouble --
8 then this is what we call a cancellation in our
9 district.

10 THE CHAIRMAN: And it is the
11 ship's fault?

12 THE WITNESS: Yes. Well, I mean
13 I don't imply wrong there, but it has just happened
14 that as the pilot has presented himself ready to
15 sail and completed his assignment he is turned back
16 and he is told "We don't need you" . . .

17 THE CHAIRMAN: That would be the
18 occasion for a penalty?

19 THE WITNESS: Yes.

20 THE CHAIRMAN: And in the case of
21 detention?

22 THE WITNESS: The detention is when
23 the pilot is detained. Probably, in this same in-
24 stance, there would be engine trouble, and the pilot
25 has been informed that the ship is sailing at four
26 o'clock and he gets there and the master says "We
27 have had a little trouble and we will not be sailing
28 until six o'clock or six-thirty." Well, it is
29 not long enough to permit the pilot to come back and
30 then go back again; but, of course, he is retarted
three or four hours through the ship's fault and he



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is paid so much an hour for detention.

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THE CHAIRMAN: Or the loading isn't
finished?

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THE WITNESS: Yes; this happens in
many instances, that the vessel is working cargo.

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THE CHAIRMAN: We were told that
this penalty was worked out so as to avoid abuses.

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3 Some detentions or some delays are
4 part of the . . . It is an additional hazard
5 because we cannot minute everything down to the last
6 minute for loading the ship or departing and so on.
7 There might be all kinds of hazards or circumstances
8 that are going to delay a ship. But apparently
9 there were abuses and a tendency for agents to call
10 a pilot well ahead so as to be sure not to be
11 delayed by the pilot. So we were told that this
12 was the reason why the penalty was placed and not as
13 a means to earn money.

14 THE WITNESS: Well, I think the
15 figures will speak for themselves, if you look
16 at those. It is such a small amount per year for
17 the whole of our district. I cannot speak for
18 other places where I am not too sure.

19 If I may, my lord, I would like
20 to mention that in our district at least the
21 shipowner benefits from a free hour in any case.
22 We always allow the first hour to be free. For
23 the first hour we have been called there there is
24 no charge to the ship.

25 THE CHAIRMAN: So to come to your
26 last recommendation to the effect that there should
27 be an exemption from detention for stress of
28 weather and ice conditions -- it was stress of
29 weather; ice conditions is something very special --
30 but when you have stress of weather when is it
going to start being a detention on account of stress
of weather, when the ship is obliged to anchor or



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2 when a trip which usually takes eight hours takes
3 ten?

4 THE WITNESS: Not necessarily that
5 much. I sort of look at it more from past winter
6 experience. Many of the vessels engaged in this
7 winter navigation on the St. Lawrence would call at
8 Seven Islands or Baie Comeau, for instance; then of
9 course it is a very short passage from Baie Comeau
10 to Escoumains, so the pilot will be called at
11 Quebec to be at Escoumains before the ship calls at
12 Baie Comeau. In the meantime it is winter time,
13 so we must face this. The pilot may even have
14 arrived at Escoumains and bad weather would blow up
15 and the master would say: "I am going to wait until
16 the storm abates."

17 THE CHAIRMAN: You mean before
18 leaving -- the ship might not sail?

19 THE WITNESS: It might be that or
20 it may be other instances.

21 THE CHAIRMAN: You do not mean de-
22 tention en route?

23 THE WITNESS: There might also be
24 cases of detention en route, but I cannot see it
25 very well because due to the physical way of the
26 river in the winter you cannot anchor in the ice,
27 or very seldom could it be done in safety. I do
28 not see how you are going to be detained en route in
29 the winter because we cannot be detained; you must
30 keep on going. Once you have left and are going you
you must try to reach another port; you cannot anchor.



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3 THE CHAIRMAN: One interpretation
4 of your paragraph 60 is that it is only applicable
5 to winter piloting?

6 THE WITNESS: Yes, 60 is only
7 applicable to winter navigation recognized as such
8 in the district, which is from the 1st December to the
9 8th April.

10 MR. LALONDE:

11 Q. Captain Dussault, I understand you
12 gave evidence about what you know directly of your
13 operation in the district, but is it not a fact that
14 in the case of the riverpilots between Quebec and
15 Montreal, for instance, the detention which might
16 be due to stress of weather might be mainly detention
17 en route?

18 A. That is possible.

19 Q. Because they might be caught in a
20 snowstorm en route between Montreal and Three Rivers
21 or Three Rivers and Quebec and have to anchor for
22 several hours or a day or two?

23 A. In the winter time?

24 Q. In the winter time?

25 A. Anchor in the ice?

26 Q. Or you could get stuck in the ice?

27 A. If you are stuck in the ice, that is
28 all right.

29 THE CHAIRMAN: I am just wonder-
30 ing, of course, maybe some machinery could be found
in order to find out what to charge. If the ship
has to work against the ice and it is not moving, is



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3 that going into detention from the time it does
4 not move?

5 MR. LALONDE: I think on this
6 point the detention due to stress of weather
7 would be if a ship has to anchor in winter time or
8 the trip takes two days while normally it takes
9 seven hours.

10 THE CHAIRMAN: There is a problem
11 there, but I am just wondering whether this should
12 be called detention. This is the point I want to
13 make -- whether it should be called something else.

14 I am just coming to another point
15 now. We have heard about another kind of detention
16 in British Columbia when on account of the inability
17 or the unwillingness of the Authority to place
18 boarding stations at the entry of the pilotage
19 waters it is necessary for the ships to pick up
20 pilots outside the district waters and from the
21 boarding stations to the moment the ship is entering
22 the pilotage waters is called detention. Well,
23 this is a position imposed on the ship by the
24 Pilotage Authority and this is called detention.

25 Maybe the charge is all right. It
26 is very small indeed. But I do not think it
27 should be called detention -- that is my impression
28 of it -- because it is not on account of the ship but
29 is just because of the inability on the part of the
30 Pilotage Authority to establish boarding stations
at other places. I think we should take care
about using the same words for different meanings.



DIRECT EXAMINATION BY MR. LANGLOIS:

Q. Captain Dussault, in the same light of the feelings expressed by his lordship, how would you describe the delay occasioned to a ship for example on her way to Montreal which will meet halfway between, say, Montreal and Three Rivers, ice, shore ice being broken up and floating down the river and will have to go outside the channel and wait probably a number of hours until this ice has gone through before proceeding? Would you call that detention?

A. Well, I suppose the pilots there would like to call it that. This happens in the spring especially in our own district and so far the pilots have been good hearted. We just call it part of the trip.

THE CHAIRMAN: Let us say during the summer or fall you are obliged to anchor; is that detention?

THE WITNESS: No, that is part of the trip. There is no charge for that. It happens regularly every season -- less now because ships are equipped with radar and good navigational aids, but so far it is just part of the trip.

THE CHAIRMAN: In other words, in the winter time with the special conditions it is a risk taken by the ship and therefore the ship should pay for it?

THE WITNESS: It is to be expected as more part of the normal winter season of navigation than it would be in the summer. In the



1
2 summer this may be a very small proportion, but in
3 the winter it is going to happen more often.

4 MR. LANGLOIS:

5 Q. Another example of a delay of this
6 kind would be when you are called to a ship and
7 when you get on board there is too much ice moving
8 in the river and the departure has to be cancelled
9 and the pilot probably will have to stay on board
10 until conditions improve?

11 A. That is correct.

12 Q. But you do not call that a penalty
13 to the ship because a pilot is called upon to do
14 extra work for which there is no remuneration provided?

15 A. That is right.

16 THE CHAIRMAN: I do not object to
17 all that, just to the term "detention" being used,
18 that this concept does not cover everything. I think
19 there should be a new word for that.

20 MR. LANGLOIS: Yes, my lord.

21 COMMISSIONER RENWICK: Just to
22 clarify paragraph 60, it has been repeated as "stress
23 of weather" in our discussion. My copy reads "stress
24 of water" and I am wondering which is correct.

25 THE WITNESS: It is the same in
26 my copy, Mr. Renwick.

27 MR. LANGLOIS: This is another of
28 these misprints, sir.

29 COMMISSIONER RENWICK: Which is
30 correct -- weather?

THE WITNESS: Weather.

(20,298 follows)



CROSS-EXAMINATION BY MR. BRISSET:

Q. Could you give us an example of delay -- not to use the word "detention" -- by stress of weather in the winter time as distinct from ice?

A. As . . . ?

Q. Distinct from delay due to ice conditions?

A. Well, I would think it would be some of the masters. Take for example that we are tied up in Quebec Harbour and we are called for such-and-such a time and just as we are coming aboard a snowstorm has started or something like that and the master says: "We are going to wait until this gets better; I am not going now", and he retains you on board so he wants you to be there when the storm abates three or four or six hours later.

Q. Would you consider that this could happen en route so as to come within your request for exemption?

A. In practice I do not believe that it could happen en route because, as I stated earlier, once you have left in the winter time you are pretty well committed to reach either end. Either you come back to Quebec or get down to Escoumains. You cannot anchor in the river because ninety-nine per cent of the time ice conditions will not permit this. Whatever weather happens once you are en route you are committed to come back to your first



1
2 point or go to your terminal point.

3 Q. Even if the trip takes longer?

4 A. Yes. I can give you personal
5 examples of 36 hours from Quebec to Escoumains,
6 and this was just a normal trip. It took 36 hours
7 but it was just a normal trip through stress of
8 weather -- snow, ice, everything.

9 THE CHAIRMAN: Are there any further
10 questions on this subject?

11 MR. LANGLOIS: My lord, since
12 Captain Dussault is my witness for the chapter en-
13 titled Tele-Communications, we might as well go to
14 this chapter now.

15 DIRECT EXAMINATION BY MR. LANGLOIS:

16 Q. Tele-Communications at pages 35
17 and 36 in paragraphs 72 and 73. Would you kindly
18 describe more fully the circumstances to which these
19 paragraphs have reference?

20 A. Well, your lordship, there again I
21 must say that I believe I spoke at some length and
22 so have many other witnesses in Quebec and Montreal
23 on this subject. I think it has been shown even
24 by experts in tele-communications -- which I am not --
25 that that stretch below Quebec, especially from
26 Cap Brulé right down to Cape Goose, has created
27 quite a lot of trouble.

28 Nothing has been done to this day
29 to better the tele-communications system in that
30 stretch of the river, and I believe that the example



1
2
3 of the ill-fated TRITONICA, which is mentioned
4 in paragraph 73, is a good example.

5 There again I stress that nothing
6 has been done in the way of improvements on that
7 score here.

8 THE CHAIRMAN: I think we have heard
9 that there was a new station at St. Michel or Belle-
10 chasse. There was a new station being built.

11 MR. LANGLOIS:

12 Q. I heard about one being built at
13 Riviere du Loup.

14 THE CHAIRMAN: Between Escoumains
15 and Riviere du Loup.

16 THE WITNESS: If it is it is again
17 a good example of the pilots never being told or
18 consulted.

19 THE CHAIRMAN: I think it was this
20 year.

21 MR. LANGLOIS:

22 Q. Have you heard about such a station?

23 A. I have not heard; it is possible.

24 MR. LALONDE: I understand it was
25 mentioned at Ste. Anne de la Pocatiere.

26 THE CHAIRMAN: I recall mention of
27 St. Charles, but it was not Ste. Anne de la Pocatiere.
28 We had evidence at the last hearing here in Ottawa.

29 CAPTAIN SLOCOMBE: I think it was
30 my evidence, my lord. I have not got the notes with
me here, but I think the stations were under test. I
do not know whether this was the one referred to.



1
2 There are two stations now under test.

3 MR. LANGLOIS: Are they mobile
4 stations? They are just testing?

5 CAPTAIN SLOCOMBE: No, new stations
6 which are now being tried out.

7 MR. LANGLOIS: At any rate, my
8 lord, in connection with paragraph 73 the evidence
9 in connection with the formal investigation into
10 the sinking of the TRITONICA is part of the
11 records of this Commission.

12 Q. Now, Captain Dussault, in paragraph
13 74 a recommendation is made that ships be equipped
14 with MF-VHF radio-telephone sets. Does this
15 apply to all ships using pilotage waters?

16 A. Yes, sir. I believe that in my
17 former evidence I quite strongly advocated this and
18 it is still my opinion. I mean that all vessels
19 large or small plying the restricted waters of
20 the St. Lawrence River should be so equipped. When
21 I say "all vessels" I mean small coasters and even
22 more so vessels which do not carry a pilot, so that
23 in dirty weather -- fog or anything like this -- I
24 think this would contribute enormously to the safety
25 of all vessels on the St. Lawrence and all traffic.

26 Q. In cases of ships using the ser-
27 vices of pilots, who would handle the radio-telephone
28 sets?

29 A. Well, I suppose the pilot . . . It
30 would all depend where the radio sets would be installed
to start with.



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Q. If there is one, of course.

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A. Of course, the location. We find now -- and I am speaking of personal experience -- if the radio set is installed right into the wheelhouse it is very easy for the pilot himself to handle it keeping an eye out. Of course, if the radio set is the type with dials that have to be switched or anything, and in many cases the radio set might be in the chart room or in the WT office, the radio office, it means one of the officers of the vessel will have to use it.

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I strongly advocate the installation be right in the wheelhouse, and I believe there is good reason.

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In the St. Lawrence to start with many of the communications will have to be with local crews and the only language that could be used so that everybody would understand each other would be French. On most foreign vessels coming up there the officers would not be able to communicate with any degree of safety or reliance with these schooners or smaller vessels. If you set these in the radio office the pilot has to leave the bridge and right away there is nobody to attend to the safety of the vessel. I strongly recommend that the radio is in the wheelhouse. It is very handy to the pilot to still keep an eye on the navigation of the vessel while still having a conversation.

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Q. Are pilots qualified operators of radio-telephone sets?



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A. Not all of them; some of them are.

Q. I mean, are they licensed to?

A. Some of them; that is all I can answer. I am, but I do not know if all pilots are. Well, I should not say that. I know that some are not, but I know that some are. It is a matter of percentage.

Q. So when they are obliged to use their radio-telephone sets they are also obliged to break the law?

A. This is perfectly correct. In many instances if the pilot does he is technically breaking the law. As the law says, you must own a licence to use the radio-telephone.

THE CHAIRMAN: You advocate that the set be placed in the wheelhouse. With the noise of that radio-telephone do you not think it may interfere with the good work of the wheelhouse -- the pilot's work and the master's work?

THE WITNESS: Not to that degree, sir. I mean, all those sets have volume adjustments and squelch adjustments which can be turned just so -- enough that you can hear any call that would be addressed to the vessel, the vessel's name, or a call is being sent out or a distress signal or the important security calls or messages to shipping. When you are using it yourself it is easy to bring up the volume a little bit.

I have extensive experience with radio-telephone on board as master, officer and pilot.



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Dussault, dir
(Langlois)

20,304

1
2 I have never found this to be an inconvenience.

3 THE CHAIRMAN: It is not done on
4 calling bands.

5 THE WITNESS: You can switch, if
6 you are shore-to-shore to two and three or ship-to-ship
7 to four and five.

8 MR. LANGLOIS:

9 Q. Is it not a fact that on most
10 coastal vessels these radio sets are installed in
11 the wheelhouse?

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1 A. That is correct, a very large
2 majority.

3 Q. Is it not a fact -- if your radio-
4 telephone is not in the wheelhouse how can the pilot
5 be warned there is a specific call being given?

6 A. That is correct. I will enlarge on
7 that. When these notices to shipping are given over
8 the radio, called from the local port authority,
9 docking orders and such, all these things may be of
10 vital importance; they are important enough that they
11 are part of the pilot's work. He needs to know all
12 these things.

13 Q. And when you mention language diffi-
14 culties, particularly on the St. Lawrence for foreign
15 ships' officers, would this apply particularly to
16 circular calls being given in French and the operator
17 would not understand what is meant?

18 A. That is quite correct. All these
19 smaller river craft, they are given in French; it is
20 the working language, and if it is given to the radio
21 officer who doesn't understand or speak French most
22 times -- it would mean nothing to him while it might
23 be of vital importance to the pilots.

24 Q. Is it not also the case that some
25 foreign ships even if the messages are given in
26 English, they won't understand because they don't even
27 speak the English language?

28 A. Yes. It would happen in some cases.

29 Q. Say a Greek ship?

30 A. Yes.



1 MR. BRISSET: I am instructed to
2 inform the Commission that the Shipping Federation is
3 in agreement with this recommendation in Section 74
4 that radio sets be placed in the wheelhouse.

5 THE CHAIRMAN: No matter how small
6 the ship?

7 MR. BRISSET: I am speaking for the
8 members of the Shipping Federation alone.

9 THE CHAIRMAN: I was just wondering
10 to what extent it should go. To yachts, schooners
11 and for those who are not using the main channel.
12 Should they also be equipped with all that?

13 THE WITNESS: I suppose good common
14 sense should be used in this instance, but ships
15 which are using the normal routes I think should be
16 equipped.

17 MR. LALONDE: If the shipowners and
18 pilots are in agreement, the Department of Transport
19 must be against.

20 THE CHAIRMAN: No, from what we have
21 seen so far they are not supposed to be.

22 MR. LANGLOIS: In connection with the
23 schooners, there is a tendency that they are disappearing
24 and they are being replaced by larger vessels which
25 must use the main channel.

26 THE CHAIRMAN: That is right.

27 MR. LANGLOIS:

28 Q. Now, Captain Dussault, I come to
29 paragraph 75 regarding two-way portable radio sets.
30 Would you care to add to what is said in this paragraph



1 here?

2 A. Well, I must say this has been the
3 talk for quite some years. Even in our district we
4 have been told years ago that we would soon have such
5 sets. I mean for pilots to carry around for safety
6 measures. I mean so that we would have at all times
7 between ships that are using pilots a means of com-
8 munication from one pilot to the other one, but it is
9 not so in my district.

10 So there again I must say that I
11 advocate the use of the small portable sets. I have
12 heard from various districts which are using these
13 sets that some of them are quite heavy and not very
14 easy to carry around with you, and many other flaws,
15 but of course this is only hearsay, and I would not
16 like to give evidence that I am not too sure about.
17 I believe people are already using the sets, and I
18 go on record and say I quite advocate the lightweight
19 reliable set to be furnished to pilots on board
20 vessels, especially vessels that are not equipped
21 with radio equipment.

22 THE CHAIRMAN: The question is who
23 is going to pay for it? They are very expensive.

24 MR. LANGLOIS: Thank you, Captain
25 Dussault.

26 ---Witness retires.

27 MR. LANGLOIS: In connection with this
28 chapter I have two other witnesses which I just want to
29 ask one or two questions. The first will be Captain
30 Fournier.



CAPTAIN FOURNIER, recalled

DIRECT EXAMINATION BY MR. LANGLOIS:

Q. Captain Fournier, you are under the same oath that you took this morning. Would you care to tell us what information you were able to obtain on the night of the sinking in the St. Lawrence River of the LEECLIFFE HALL on the 5th of September last, and where you were and what information you acquired and could you get this information when you needed it?

A. Well, on that particular date I was down at Escoumains on station, and I was due to embark in the evening, and I found out over the radio, that is the radio I have in the house, over the news, that there had been a collision on the St. Lawrence, the position of which I don't think was given, or very approximate. This was around nine-thirty in the evening, I believe, or nine o'clock, and I knew I was going to go on board this ship around midnight or eleven o'clock. I tried to find out from the pilot station if they had the position of this, where this had occurred, and I believe they said something about a ship being sunk. That came over the news, so I wanted to know the position of it. By the time I embarked on board this ship I couldn't find out the position that this vessel sunk.

MR. LALONDE: What time did you embark for the ship?

THE WITNESS: It was around eleven



1 or midnight that night. On board the ship -- I got on
2 and they knew of the collision also, but they didn't
3 know the position. They had heard, I believe, from
4 the ship that had gone by, had gone by the place where
5 the collision had happened, that there had been a
6 sinking, so it was only the next morning we had gathered
7 by that time that it had been along Cape Goose, but we
8 didn't know -- we didn't know any more.

9 We kept a lookout for this ship if
10 we could see where it was, and we found out -- we saw
11 the top of the masts by looking at the shoreline. We
12 saw the top of the mast, and, well, that must be it.
13 As we got near to it we said "Yes, that is it." That
14 is the top of the mast that showed quite clearly as
15 we got near, but when we first saw it we weren't too
16 sure that was it. That is about all.

17 MR. LANGLOIS:

18 Q. Did you try to get this information
19 on your way up, when you were on your way from Les
20 Escoumains up or down or did you try only at the
21 station?

22 A. Before I got aboard that night I tried
23 from the pilot station but they didn't have anything.
24 During the night there were no ships really that knew
25 anything about it either. It was all approximate.
26 They knew that a collision had happened but they didn't
27 know where. They didn't know where the sinking had
28 taken place, and so on.

29 THE CHAIRMAN: What was the hour of
30 the sinking?



1 THE WITNESS: I was told it was
2 five o'clock in the afternoon.

3 MR. LANGLOIS: The collision occurred,
4 my lord, at five-fifteen, five-twenty in the afternoon,
5 and the ship went down about 2325, according to the
6 time of my yacht.

7 THE WITNESS: But we found out the
8 position finally. We found out for ourselves where
9 the ship was, but we got it on the radio ---

10 MR. LANGLOIS:

11 Q. The following day?

12 A. The following day. I can't remember
13 the time, though, but it was after we had gone by the
14 sinking -- by the sunken vessel.

15 MR. LANGLOIS: I think the trouble
16 was there that the District Marine Agent could not get
17 in touch with the ships which were on the spot of the
18 accident due to bad radio communications, and myself,
19 my lord, I did receive a phone call the following
20 morning from Captain Giroix, District Marine Agent,
21 asking me for the position, and I gave it to him, and
22 I was asked if I could go with the pilot boat No. 10
23 the next day to verify that position, which we did.

24 THE CHAIRMAN: I suppose all this
25 will come out in the investigation that is starting
26 next Monday.

27 MR. LANGLOIS: It should, my lord.

28 MR. LALONDE: Do you know whether
29 the radio operator on the ship tried to get information
30 during the night?



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Fournier, dir
(Langlois)

20,311

1 THE WITNESS: This was a lake boat.

2 MR. LALONDE: On the ship ---

3 THE WITNESS: We didn't try Quebec.

4 We knew we couldn't get it.

5 MR. LALONDE: You couldn't reach
6 Quebec?

7 THE WITNESS: No.

8 MR. LANGLOIS: I brought the witness
9 to show that radio-telephone communications are quite
10 important at times.

11 THE CHAIRMAN: Escoumains has been
12 having teletype communication with Quebec?

13 THE WITNESS: That is right.

14 THE CHAIRMAN: Even they didn't know
15 at the time?

16 THE WITNESS: No. As I said, I am not
17 too sure of the time. You say the sinking happened
18 around 12:30? I might have got aboard my ship around
19 that time, so there would be an excuse.

20 THE CHAIRMAN: The ship being dis-
21 abled from 5.20.

22 MR. LANGLOIS: It was a danger to
23 navigation from 5.15 on, my lord. She actually went
24 down at that time.

25 ---Witness retired.
26

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1 CAPTAIN MacKAY, recalled

2
3 THE SECRETARY: You are under the
4 same oath.

5 DIRECT EXAMINATION BY MR. LANGLOIS:

6 Q. Captain MacKay, in connection with
7 paragraph 75, and dealing with the use of the two-way
8 radio sets, portable sets, would you mind telling
9 the Commission the experience you have had with these
10 sets on the west coast in your district?

11 A. The pilots of the New Westminster
12 District are certainly using these small portable
13 radio sets. They are not the VHF type that we feel
14 would be the best sets for our use. They are small
15 transistor type, and they have had very good success
16 with them in their shiphandling, in their talking with
17 the tugboats while they are moving ships in and out
18 of berths, and also talking to one another while they
19 are between ships in the river.

20 We have tried out the VHF sets, and
21 we have tried different ones, and we have decided
22 that the Marconi -- pardon me, the Motorola set is the
23 best one for our purposes, and we would very much like
24 to see all the pilots equipped with this instrument.
25 Even though the vessel may itself be equipped with a
26 VHF set, we still feel that it is necessary for the
27 pilot to also have this portable set.

28 I say that because he can be at his
29 vantage point on the wing of the bridge. When he
30 is navigating in restricted waters or when he is berthing



1 the ship he must be out on this vantage point instead
2 of in position in the wheelhouse where the ship set
3 would normally be.

4 COMMISSIONER RENWICK: Approximately
5 what weight would that be, captain?

6 THE WITNESS: These run I believe
7 around 32 ounces.

8 THE CHAIRMAN: I think these were
9 the sets we saw on the north shore of the St. Lawrence
10 River at Port Cartier and Seven Islands, I think.

11 MR. JACQUES: Have the pilots thought
12 of buying these sets?

13 THE WITNESS: Yes, we have discussed
14 this, but they are a lot of money -- a thousand dollars.

15 THE SECRETARY: Apiece?

16 THE WITNESS: A thousand dollars
17 apiece.

18 THE SECRETARY: Can you recall the
19 name, the product?

20 THE WITNESS: The Motorola.

21 THE CHAIRMAN: I think Marconi is
22 even more expensive. We went to the factory in Montreal,
23 and we were told that they were quite expensive.

24 THE WITNESS: The Marconi set
25 didn't have the power that the Motorola set has.

26 THE CHAIRMAN: We were told in the
27 north shore ports there that the ones they had were
28 very, very effective.

29 MR. LANGLOIS:

30 Q. Any further comments to make on this
subject?



1 A. No. We feel it is most important
2 that all pilots be equipped with these portable sets.

3 THE CHAIRMAN: You are equipped
4 in Vancouver to a certain extent with some. Can you
5 say whether they are useful or not?

6 THE WITNESS: Oh, yes, we make very
7 good use of these six sets which are available to us
8 in Vancouver, but we quite often have more than six
9 ships moving at one time so these six are not adequate.

10 We also feel these sets are needed
11 in other ports of our district and between ports.

12 THE CHAIRMAN: So if you are provided
13 with small sets you could carry them with your luggage?

14 THE WITNESS: Yes.

15 MR. LALONDE: What range can you
16 reach?

17 THE WITNESS: They guarantee a five-
18 mile range, but I understand they have worked quite
19 satisfactorily up to twenty miles.

20 THE CHAIRMAN: Unobstructed?

21 THE WITNESS: Unobstructed, yes.

22 MR. LANGLOIS:

23 Q. How would they work inside the frame-
24 work of the wheelhouse?

25 A. Very good. Very good.

26 Q. The steel won't affect them?

27 A. Oh, no. They work right from the
28 wheelhouse of the ship, yes.

29 MR. LANGLOIS: While the same witness
30 is on the stand, my lord, we will deal with the chapter



1 that I bypassed, the pension fund, pages 29, 30, 31
2 and 32.

3 Q. Captain MacKay, in paragraphs 61 and
4 62 you discussed the request that you made, the appli-
5 cation that was made for the transfer of your pension
6 fund to a private trust company.

7 Do you care to tell the Commission
8 what has developed since we were last in Vancouver,
9 when the Commission sat in Vancouver?

10 A. Yes. I believe I did give some
11 evidence on this particular subject in Ottawa in June.

12 THE CHAIRMAN: In June, yes, that
13 is right, and there have been developments since.

14 THE WITNESS: Yes, the developments
15 since that time -- I first received a letter from our
16 Regional Superintendent Captain Eddy, addressed to
17 myself as Chairman of the B. C. Pilots Committee:

18 "The Superintendent of Pilotage
19 has instructed me to inform you of a
20 ruling regarding proposed transfer
21 of funds of the British Columbia
22 Pilotage District pension plan. The
23 Department of Justice states that
24 because of the problems, complexities
25 and the legal questions involved, an
26 amendment to the Canada Shipping Act
27 would be necessary before the depart-
28 ment can make this transfer.

29 "The department therefore is
30 consulting its legal officers on what



1 steps can now be taken, and will
2 keep me informed. It would appear
3 that this matter will take longer
4 than first thought necessary."

5 We had been going on the assumption
6 that all that was necessary was a change in the district
7 bylaws to have this plan turned over to a private
8 company.

9 On receipt of this letter from
10 Captain Eddy, I wrote to him and told him this had been
11 our idea, that all that was necessary was a change in
12 the bylaw, and I said may we ask why a change in The
13 Canada Shipping Act is necessary and what the proposed
14 change would be.

15 The next correspondence I received
16 on this was a letter from the Deputy Minister Mr. J. R.
17 Baldwin, dated the 23rd of September, addressed to
18 myself as chairman, which is as follows:

19 "I refer to your letter of
20 August 18th, 1964, to the Superin-
21 tendent of Pilots of Vancouver,
22 asking to be advised why a change
23 in The Canada Shipping Act is neces-
24 sary for the proposed transfer of the
25 pension fund of the pilotage district
26 of British Columbia to Investors
27 Trust Company in Winnipeg, as requested
28 by the British Columbia pilots.

29 "The question is to whether or
30 not the proposed transfer of moneys



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MacKay, dir
(Langlois)

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1 as recommended by the British
2 Columbia pilots may be made was
3 submitted to the Deputy Minister
4 of Justice for advice, and the
5 latter has advised the department
6 that the existing provisions of the
7 Canada Shipping Act do not contem-
8 plate the transfer of the pilotage fund
9 in the manner as requested by the
10 British Columbia Pilots Committee,
11 and therefore that an amendment of
12 the Act would be required in order
13 to authorize such transfer.

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MacKay,

20,318

1 It is pointed out, however, that amend-
2 ment of the Act for the purpose could not be
3 promoted during the present session of
4 Parliament as Bill S7 to amend the Canada
5 Shipping Act has already been approved by
6 the Senate.

7 Yours very truly."

8
9 You will note that the Deputy Minister refers to the
10 "pilotalge fund" here.

11 THE CHAIRMAN: Is it "pilotalge fund"
12 or "pilot's fund"?

13 THE WITNESS: The "pilotalge fund."
14 We thought that there was the possibility that the
15 Justice Department ruled on the wrong fund.

16 THE CHAIRMAN: No, I think they ruled
17 on the right one.

18 CAPTAIN SLOCOMBE: That must be a
19 mistake. It should be "pilots' fund."

20 THE CHAIRMAN: "Pilots' fund" as
21 defined in the Act, which means the pension fund, and we
22 have set rules there and it is entrusted in the Crown
23 so, therefore, the Crown can't go against the law until
24 the law is amended. So I think that is the gist of
25 the opinion of the Department of Justice. We haven't
26 seen it yet, but we will make a request to see it.

27 MR. LALONDE: It would be interesting
28 to get an opinion because section 366 of the Act of
29 1934 and 374 of the present Act, which has not been
30 proclaimed, state that these funds are administered



1 by the government except in the pilotage district of
2 Quebec or any other pilotage district which may elect,
3 after sanction by the Governor-in-Council...

4 THE CHAIRMAN: Is that the law as it
5 exists now?

6 MR. LALONDE: Yes, it is; so I don't
7 know -- it would be interesting to see what
8 interpretation they put on this in view of a reading
9 of the Act.

10 THE CHAIRMAN: I take it the same thing
11 would apply in Montreal?

12 MR. LALONDE: Yes; and we are faced
13 with the same problem in Montreal; and the objection
14 has not been raised that amendment to the Act would
15 be required. This is the first time I have heard
16 of it.

17 In Montreal the view was taken that
18 the Department would prefer to await the report of the
19 Commission.

20 MR. LANGLOIS: Before we receive any
21 official views of the Department of Justice, it would
22 seem that the Department of Justice is embarrassed by
23 the fact that the law does not provide how the
24 selection, or election, should be made.

25 THE CHAIRMAN: We are only surmising here,
26 because we haven't seen it yet.

27 MR. LANGLOIS: We haven't seen it
28 officially, but from conversations it would seem that
29 this is the point, and I must say I fail to see that
30 it would be necessary for the election by the pilots



1 to be spelled out. I don't see any reason for it.

2 THE CHAIRMAN: Of course, another way
3 would be to abolish the pension plan and start a new
4 one on a private basis outside the pilotage basis,
5 and, of course, the old fund will have to stay there.

6 MR. LANGLOIS: Q. Am I to understand,
7 Captain, that in your case all the pilots were in favour
8 of this transfer?

9 A. Well, we had 87% of the pilots
10 voting in favour of this transfer of the fund.

11 THE CHAIRMAN: And from the evidence
12 we had I think the Department of Transport was in favour.

13 MR. JACQUES: Might we, then, request
14 the Department at this time to supply the Commission
15 with the opinion given by Justice on this particular
16 point?

17 THE CHAIRMAN: We would appreciate it,
18 and we are going to ask that it be furnished.

19 MR. JACQUES: We might, then, give
20 it an exhibit number right away.

21 THE SECRETARY: It is in our files.
22 I am advised that it is in our files now.

23 THE CHAIRMAN: It was not brought to
24 my attention.

25 MR. JACQUES: Nor to mine.

26 MR. LANGLOIS: Has it been given a
27 number?

28 THE SECRETARY: 1389.

29 --- EXHIBIT No. 1389: (To be filed) Opinion by
30 Department of Justice.



1 THE CHAIRMAN: So we will have it here
2 tomorrow.

3 MR. LANGLOIS: Q. Have you got
4 anything further to add, Captain?

5 A. Well, the fact is that the
6 British Columbia pilots were quite disturbed that
7 this had taken so long to put through -- for the
8 transfer to be made. We have had three pilots
9 retired since December 31, 1960 when the change-over
10 of this plan would go back to, and one pilot died in
11 service and his widow is affected by this, too.
12 They would all be receiving substantially higher
13 pensions if this plan was turned over. Our senior
14 pilots are the ones that are starting to gain the most,
15 and they are quite concerned about it.

16 THE CHAIRMAN: I am pretty sure that
17 one of the reasons would be that even with government
18 responsibility, if something should go wrong with the
19 trust company, or it goes bankrupt after a while --
20 because we have seen bankruptcies of trust companies,
21 and this can happen again. Maybe that is the reason
22 why.

23 THE WITNESS: No, My Lord; I think
24 you misunderstood me. The senior pilots that are
25 in pilotage now, working as pilots, would stand to gain
26 the most by the transfer of this fund.

27 THE CHAIRMAN: Yes, I know; but there
28 is the question of preferred rights of pensioners, and
29 if everybody could have signed a release from the
30 government I don't know how valid it would be to go



1 against that; but it is a legal question; so before
2 discussing this we had better see the Department of
3 Justice.

4 MR. LANGLOIS: By the same token if
5 the investments made by the Crown of this money that
6 belongs to the pilots go bad the pilots stand to lose
7 also.

8 THE CHAIRMAN: Yes; but I think they
9 have their moral engagement there.

10 MR. LANGLOIS: Unless the Crown
11 accepts full responsibility for the investments.

12 My Lord, I have no further questions
13 of Captain MacKay.

14 Now, My Lord, I propose to deal with
15 paragraph~~s~~ 65 to 68 inclusive, dealing with the case
16 of the Sydney pilots. Since there is a pretty clear
17 indication of their position on file with the
18 Department we didn't deem it necessary to go to the
19 expense of calling a witness from Sydney, and I would
20 refer the Commission to this file.

21 THE CHAIRMAN: All right. So the file
22 is the Department file?

23 MR. LANGLOIS: Yes.

24 Now, before I proceed with the last
25 chapter I would like to recall Captain Collins to make
26 some comment in connection with pilot boats, if he
27 could be recalled under the same oath as he gave this
28 morning.

29 CAPTAIN COLLINS, recalled

30 THE SECRETARY: You are under the same



1 oath, Captain Collins.

2 THE WITNESS: Yes.

3 MR. LANGLOIS: Q. I understand
4 that you have some further evidence to give in connection
5 with the pilot boat situation in your district. Would
6 you care to go ahead?

7 A. Well, at St. Johns we still have
8 a very serious pilot boat situation there, and now with
9 the winter months coming on and the bad weather actually
10 we don't have either boat. When I left St. Johns this
11 time we were using a fishing boat as a pilot boat.

12 No. 3 boat, the boat sent to us from
13 Sydney, although it has undergone a refit quite recently
14 it still is developing engine trouble and couldn't be
15 used with safety. No. 2 boat, which we were actually
16 using as our main boat, has been under repairs which
17 leaves us just with the No. 3 boat that came from
18 Sydney, and with the engine trouble we were last week
19 using a fishing boat.

20 This No. 3 boat from Sydney is a boat
21 of the type we cannot use in harbour in rough weather
22 for the simple reason it is so violent to handle and
23 it would be too dangerous to try to disembark or
24 embark at the boat.

25 I might add that we have been promised
26 by the Department of Transport that we are going to
27 get a new boat next August. They realize the No. 3
28 boat is too dangerous to use; and this is why the No. 2
29 boat that we were using as the main boat -- they
30 realize it needs repair and they are making the repairs



1 so that the boat should be ready for operation in the
2 winter months.

3 Q. These repairs are presently under
4 way?

5 A. Well, the boat is in the dry dock,
6 and I take it that the repairs are under way. Whether
7 it has to go through any channels, I couldn't say --
8 whether the actual work is being done or not.

9 Q. Have the pilots been consulted
10 as to the construction features of this new pilot boat
11 that you are talking about?

12 A. Yes, we were. Mr. Bowen from
13 the Department came down and we advised him what we
14 needed in a boat and what we would like to have and
15 what we should have, and with these recommendations
16 he went back to draw up the plans for the pilot boat.
17 But, of course, this pilot boat will not be ready, they
18 tell us, before next August. We are still without
19 a pilot boat -- we still don't have a boat.

20 THE CHAIRMAN: Would that be a steel
21 boat, or a wooden boat?

22 THE WITNESS: A steel boat, My Lord.

23 MR. LANGLOIS: But you are satisfied
24 with the proposed specifications for this boat?

25 A. Yes, we are satisfied with the
26 specifications, but I would like to emphasize the
27 importance of having a boat as soon as possible.
28 I would like to say that with the bad weather coming
29 now we have no boat and we are using a fishing boat;
30 and it is vitally important to have a boat as soon as



1 possible.

2 Q. And the boat which is presently
3 under repair, could it be considered as suitable for
4 bad weather conditions?

5 A. Well, we will have to make the
6 best of the situation.

7 Q. Is that the one which sank last year?

8 A. No; this boat is not the one that
9 sank. It is the one that was classed as inferior to the
10 one that sank.

11 Q. But you managed to keep her afloat?

12 A. Yes.

13 Q. Have you anything else?

14 A. No.

15 THE CHAIRMAN: We are going to have
16 our recess now, but I wanted to intimate that we will
17 have to finish tonight at 5 o'clock.

18 Will you finish the last chapter, Mr.
19 Langlois?

20 MR. LANGLOIS: I think so.

21 THE CHAIRMAN: Then, we will take a
22 very short recess.

23

24 --- Recess

25

26 MR. LANGLOIS: My Lord, the next and
27 last paragraphs of the brief to be dealt with have
28 to do with the disciplinary measures and shipping
29 casualties, and as Your Lordship has surely noted a
30 good deal of this chapter is argumentative and the



1 recommendations made are of a legal character. I
2 don't think it would be fair to ask any of the pilots
3 to testify in that regard.

4 I myself prepared this chapter in the
5 light of the experience I have acquired in the past
6 in handling a great number of such cases on behalf of
7 the pilots, and I am ready, My Lord, to offer any
8 comment or to give any evidence which Your Lordship or
9 the Commissioners may wish me to give. I am at your
10 entire disposal in that connection.

11 MR. JACQUES: I have no questions
12 to ask, My Lord, because I would say that on perhaps
13 the whole of this chapter I am in complete agreement
14 with my learned friend; and we have been in complete
15 agreement for several years on these points.

16 THE CHAIRMAN: Of course, we heard
17 of these problems that Mr. Galbraith mentioned the other
18 day. I don't know whether you were here?

19 MR. LANGLOIS: I read most of the
20 evidence, My Lord.

21 THE CHAIRMAN: So that the Department
22 is well aware, and it seems to us that there is some
23 power that is given to the Authority by section 329 of
24 the Act, but the Authority has not seen fit to have
25 that included in the bylaws, for making inquiry into
26 strictly pilotage business; so I think part of the
27 problem could have been solved if they had done so.

28 There are two different kinds of
29 investigation.. One would be fact-finding and the
30 other would be disciplinary. So some provisions



1 have to be made; and there is also the question to give
2 an opportunity to all concerned to voice their
3 argument and defence. But the main question in
4 pilotage is that in theory it might be very well to
5 have one set of rules; but in pilotage and navigation
6 the main question -- especially when the ship has gone
7 and the witnesses are gone also -- is this question
8 of time. So that all these have to be taken into
9 consideration.

10 MR. LANGLOIS: My Lord, on the facts
11 as outlined in this chapter I refer the Commission to
12 both the evidence given by Mr. Macgillivray and by
13 Captain Gendron which bears out most of the facts
14 outlined there; and, in addition to that, I have
15 referred the Commission to three vessels, and there
16 again the facts are really verbal and these facts
17 are before the Commission. I am referring to the
18 TIMNA, the BEACHMORE and the SEVEN SKIES.

19 Unless the Commission want me to give
20 further evidence...

21 THE CHAIRMAN: One of the main problems
22 that the Authority is faced with is the question of
23 safety, and if the Authority feels that they have doubt
24 as to the fitness of a pilot to pilot shouldn't the
25 Authority be entitled, not to cancel, but to suspend the
26 despatch of that man until it is clear -- and this should
27 not be a punishment in any way, which means that he should
28 not lose his remuneration and all that -- but I think
29 the Authority should have this power. So this is
30 something, I think, we have to consider, that the pilot-
age is for the safety of the ship and for the safety of
the navigation and all the rest of it.



1 If we have any doubt -- for instance, the eyesight;
2 there you have a question; you have a doubt about the
3 eyesight. Then all right, you say this pilot will
4 not pilot until he has an examination. This shall
5 not be considered as a disciplinary measure.

6 Also I think there should be a
7 provision somewhere that the pilot should not be in-
8 directly punished by that.

9 MR. LANGLOIS: There is also, my
10 lord, another aspect that should be considered. Not
11 only is the pilot the loser, the pilot involved, when
12 he is in that way taken off the tour-de-rôle, but all
13 of his confreres in that district are.

14 THE CHAIRMAN: It is the same thing
15 as being ill. When they are ill they do not put
16 another pilot on. I do not think it is the law that
17 is the objection in that case; I think it is the bylaws,
18 because it could be provided in the bylaws. Some
19 system could be worked out in the bylaws.

20 MR. LANGLOIS: But we have another
21 development with the Bill of Rights, my lord.

22 THE CHAIRMAN: Yes, I know. We are
23 trying it now. Even the Bill of Rights, you have a
24 right of shipping to be protected. Well, that is all
25 right; that is another right also, you see. If a
26 man is not fit he is not fit. It is not a punishment.
27 Any doubt in a public service to begin with should be
28 in favour of the service and not in favour of the one
29 giving the service. There are two sides to be taken
30 into consideration. But it should not be a punishment



1 before the man is tried. This we understand.

2 MR. LANGLOIS: Yes. Just the same
3 one has to bear in mind the fact that under the Bill of
4 Rights no citizen can be deprived of his rights, pro-
5 perty and so on without due process of law.

6 THE CHAIRMAN: Yes.

7 MR. LANGLOIS: How are we going to
8 go about this in bylaws?

9 THE CHAIRMAN: Yes. I just mentioned
10 the other day the question as to whether it is a right
11 for a pilot to pilot or whether it is a privilege.

12 MR. LANGLOIS: Myself I contend with
13 all due respect that once he has got his licence he
14 has a right.

15 THE CHAIRMAN: He has to be assigned
16 and the right to assign is the Authority. The cri-
17 terion there is safety and if there is a doubt I do not
18 think the Authority could despatch a man on whom there
19 is a doubt. If the Authority would do so and an
20 accident would happen I think the Authority would be
21 liable in torts.

22 MR. LANGLOIS: But on the other hand,
23 my lord, this could apply also to professional men, for
24 example a practising doctor or even a lawyer for that
25 matter. Once he has got his licence to practise law,
26 to practise medicine, he has a right to practise and
27 he cannot be deprived according to the Bill of Rights of
28 this right without due process of law.

29 THE CHAIRMAN: Yes, but it is not the
30 Bar which is providing the service; it is the client



1 choosing his lawyer or choosing his doctor.

2 MR. LANGLOIS: By the same token
3 the pilots consider themselves as independent contrac-
4 tors, professional men.

5 THE CHAIRMAN: I do not see any
6 evidence of that from all the evidence I have seen so
7 far. They are very dependent in all ways. This
8 is argument, of course, so we will see later on, but
9 I do not see how they can be considered independent
10 from what we see here.

11 As they said in British Columbia
12 there are all kinds of restrictions that have been put
13 on them. They cannot charge what they want; they cannot
14 go where they want; they are obliged to take an assign-
15 ment. In any event, this is only argument.

16 MR. LANGLOIS: We even have similar
17 restrictions in our own profession, my lord.

18 THE CHAIRMAN: Yes, but you can pick
19 your client. You can also withdraw from a case. It
20 cannot be compared.

21 MR. LANGLOIS: We are not bound by
22 any legislation but we have professional etiquette.

23 THE CHAIRMAN: That is right.

24 MR. LANGLOIS: So this places a
25 restriction on our activities.

26 THE CHAIRMAN: We have seen in
27 Ontario not many weeks ago that a doctor took over
28 from another doctor during an operation because he
29 thought he was not fit to continue the operation.

30 MR. LANGLOIS: That was a case of



1 special circumstances, your lordship.

2 THE CHAIRMAN: Yes.

3 MR. LANGLOIS: Another point that I
4 wish to draw your attention to is this, and I think this
5 was discussed in the evidence given by Mr. Macgillivray
6 as to whether or not a pilot could be forced to
7 incriminate himself, and in this connection I have seen
8 that there was some discussion as to the basis of the
9 law of evidence. I wish to refer your lordship
10 to Part I, Section 2, of the Bill of Rights, which
11 reads as follows. I should first read the last
12 sentence of Section 2, which reads:

13 "And in particular no law of Canada
14 shall be construed or applied as to (d)
15 authorize a court, tribunal, commission,
16 board, or other authority to compel
17 a person to give evidence if he is
18 denied counsel, protection against
19 self-incrimination or other con-
20 stitutional safeguards."

21 I would submit this applies not only with criminal
22 cases but to all cases without any exception.

23 THE CHAIRMAN: You are aware of
24 the authority of the Lafleur case with regard to the
25 ministerial inquiries and the right to counsel and the
26 right to appear before this commissioner had been
27 recognized by the Superior Court and also the Court
28 of Appeal, and it was denied by the Supreme Court
29 Authorities.

30 MR. LANGLOIS: Am I to understand



1 that the fact is taken as being proven?

2 THE CHAIRMAN: Yes. I think you
3 are quite aware of the situation there. In the
4 Lafleur case the Supreme Court made it clear that this
5 evidence was just for the information of the minister
6 and could not be used otherwise as no charges were laid
7 at the time and no rights were involved. But should
8 a charge be laid and rights be involved, then of
9 course this evidence that was taken without the
10 presence of the person concerned could not be used
11 against him. This is the gist of the Lafleur case.

12 MR. JACQUES: With respect to
13 previous evidence, my lord, I have secured from the
14 Department of Transport photo copies of two letters,
15 one addressed by Captain D. R. Jones to Captain Stone,
16 acting harbour master at St. John's, Newfoundland,
17 with respect to the overall government employment of
18 pilots in that district. It is dated September 8th,
19 1964. I also have a letter addressed by the St.
20 John's pilots to Captain Stone, of September 28th, 1964,
21 over the signature of Mr. Collins, Secretary. This
22 is in answer to the offer of government employment.
23 I should like to file these documents in a bundle
24 as Exhibit 1390.

25 ---EXHIBIT NO. 1390: Letter dated September 8th,
26 1964, from Department of
27 Transport to Captain Stone,
28 Harbour Master, St. John's,
29 Newfoundland; letter dated
30 September 28, 1964, from St.
John's, Newfoundland, pilots,
to Captain Stone.



1 MR. JACQUES: With respect to the
2 evidence which is forthcoming, I have secured from the
3 Department of Transport the auditors' reports into the
4 Lake Superior Pilots' Association, Inc. There is one
5 for 1962 and one for 1963. There were none for 1961.
6 These reports are quite comprehensive and I should like
7 to file them as Exhibit 1391, together with the various
8 documents which are annexed to the 1963 report. If
9 it is agreeable to everyone concerned they might just
10 be filed as they are now and we can dispense with
11 calling the accountants of the Department to explain
12 them. They are audited reports by the Department
13 of Transport. The 1963 report was prepared by Mr.
14 Bateman and the 1962 report was prepared by Mr. Richards,
15 I believe.

16 ---EXHIBIT NO. 1391: Auditor's reports of the
17 Department of Transport
18 into the Lake Superior
19 Pilots' Association, Inc.
for years 1962 and 1963.

20 THE CHAIRMAN: I think the reports
21 should be shown to the counsel and then the Commission
22 will take them later on.

23 MR. JACQUES: Of course, my lord.

24 THE CHAIRMAN: Because the witnesses
25 are available. If you are satisfied you have no
26 questions to ask them, that is all right, but should
27 you have questions to ask them the witnesses are
28 available.

29 MR. JACQUES: These documents were
30 supplied to us in answer to Question No. 4 of Section 7



1 of the Great Lakes Questions.

2 THE CHAIRMAN: Mr. Langlois, you
3 have finished with your brief?

4 MR. LANGLOIS: Yes, my lord, and I
5 wish to express the appreciation of the Canadian
6 Merchant Service Guild and its members for having had
7 the opportunity to make these representations.

8 THE CHAIRMAN: We thank you very
9 much. In any event what you did was quite a help to
10 us.

11 Will you be ready to proceed with the
12 Great Lakes questions today?

13 CAPTAIN SLOCOMBE: I could start,
14 my lord. I will not have any supporting cast.

15 THE CHAIRMAN: Well, as you wish.
16 If it is better that you have your supporting cast . . .

17 CAPTAIN SLOCOMBE: I am willing to
18 start to save the Court's time.

19 THE CHAIRMAN: The question is, will
20 it save time the other way?

21 Our Secretary informs me that he has
22 made arrangements with counsels from Toronto to the
23 effect that it would not be commenced before they are
24 here and they were told it would be tomorrow morning.

25 THE SECRETARY: In the circumstances,
26 my lord, I think it would be desirable to delay or
27 postpone the commencement of the examination of the
28 Department of Transport until tomorrow morning as I
29 understand they wish to be here at this time.

30 THE CHAIRMAN: All the questions?



1 THE SECRETARY: No, no. At the
2 beginning.

3 MR. LALONDE: Who is it -- Toronto
4 Harbour?

5 THE SECRETARY: I understand that
6 this was the start of the questioning addressed to the
7 Department of Transport re the Great Lakes, not District
8 No. 2. The first question is relating to past history
9 prior to the passage of the Act pertaining to Great
10 Lakes pilotage.

11 CAPTAIN SLOCOMBE: I am sorry, my
12 lord; I have my folder for the St. Lawrence-Kingston-
13 Ottawa District. I thought this was the next thing
14 -- St. Lawrence-Kingston-Ottawa.

15 THE CHAIRMAN: That is all right;
16 we will commence with that. Go ahead.

17 MR. LALONDE: Before we proceed with
18 the Great Lakes I would like to remind the witness we
19 have several questions on the St. Lawrence River that
20 have remained unanswered as yet and they were to
21 check the matter further.

22 CAPTAIN SLOCOMBE: Will you give
23 me those afterwards, Mr. Lalonde -- remind me?

24 MR. LALONDE: I am sure if you look
25 in the record the transcript will show them quite
26 clearly. I do not have them. I have not kept up
27 a list immediately available.

28 THE CHAIRMAN: I think it was summed
29 up at the end of the hearing.

30 MR. LALONDE: Yes. I remember there



1 were matters connected with the $4\frac{1}{2}$ per cent and there
2 were questions in regard to reports on accidents which
3 were to be investigated further.

4 THE CHAIRMAN: We will have the
5 record checked.

6 CAPTAIN F. S. SLOCOMBE, sworn

7
8 DIRECT EXAMINATION BY MR. JACQUES:

9 Q. For the record, the questions are
10 contained in Exhibit 1291, and we are now in Section 6
11 with respect to the St. Lawrence-Kingston-Ottawa Dis-
12 trict.

13 The first question asked for the
14 filing of the Order-in-Council establishing the
15 District of St. Lawrence-Kingston-Ottawa, and also
16 the reason why the District was established.

17 A. I have here, my lord, a copy of the
18 Order-in-Council P.C. 868 of the 3rd day of May, 1934,
19 re the setting up of the St. Lawrence-Kingston-Ottawa
20 Pilotage District.

21 Q. I might just just read an excerpt
22 from this document, my lord, which will be Exhibit 1392 --
23 P.C. 868 of the 3rd May, 1934.

24 ---EXHIBIT NO. 1392: P.C. 868, dated 3rd May, 1934.

25
26 MR. JACQUES:

27 Q. This is the opening section:

28 "Whereas the Minister of Marine
29 submits that he has had under considera-
30 tion a report from the Director of



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir
(Jacques)

20,337

1 Pilotage which states:

2 'That persons engaged in
3 piloting ships on the River St.
4 Lawrence between Kingston and Mon-
5 treal and on the Ottawa River between
6 Lake St. Louis and the Chaudiere
7 Falls at Ottawa are not subject to
8 any of the provisions of the Canada
9 Shipping Act while so engaged;

10 'That if a pilotage district
11 is formed and persons acting as
12 pilots are licensed by a Pilotage
13 Authority a Wreck Commissioner
14 appointed under Part X of the Canada
15 Shipping Act will be in a position
16 to suspend or cancel such licences
17 if it is found the holders thereof
18 are liable for a shipping casualty;

19 'That it is expedient that a
20 Pilotage District be formed and the
21 Minister of Marine appointed the
22 Pilotage Authority;

23 -

24 -



1 Apart from the reasons stated in that
2 Order in Council, are there any others which motivated
3 the creation of a district?

4 A. The next part of the question was why
5 was the district established?

6 Q. Yes, that is correct.

7 A. You have already explained that.

8 Q. And this is the only reason for the
9 establishment of the district?

10 A. Yes, this sets it out.

11 Q. It is to control the pilots; that is,
12 to be able to suspend them or cancel licences in case
13 of a casualty?

14 A. I should add that this implies that
15 it was something that was imposed by the department,
16 but there were requests for the establishment of a
17 pilotage district since 1913 when a Montreal lawyer
18 wrote to the department on behalf of some of the men
19 who were working as pilots, unlicensed, of course,
20 because there was no district. The fact that the
21 district was not formed until 1934 did not mean that
22 there were no pilots.

23 Q. Yes, but why wait twenty-three years?
24 From 1913 to 1934 -- twenty-one years.

25 A. Well, the situation was going along
26 very well. There were pilots. They were employed
27 under various methods of employment. I think there
28 may have been some on salary, but I am not sure.
29 Generally speaking I think they worked for individual
30 companies on a fee basis.



1 Q. What was the reason alleged by this
2 Montreal lawyer for the creation of a district?

3 MR. LANGLOIS: It is not Gerin
4 Lajoie, is it?

5 THE WITNESS: No, no. This is in
6 1913.

7 MR. LALONDE: Maybe it was me.

8 THE WITNESS: I am reading from
9 notes. A Montreal lawyer wrote to the department on
10 behalf of some of these pilots asking for the estab-
11 lishment of the district, and then in 1917 I have here
12 the Dominion Wreck Commissioner complained that when
13 he investigated a casualty he was not able to impose
14 any penalty on a pilot that he found at fault.

15 In 1925 the Trades and Labour Congress
16 asked that a pilotage district be formed and in 1928
17 and 1932 the Canadian Navigators Federation, which was
18 an organization of Great Lakes ships' masters and
19 officers made further requests along the same lines.

20 In 1932, the Minister, the then
21 Minister, made representations with the Canadian
22 Navigators Federation, supported by a representation
23 of the steamship companies and some six members of
24 parliament, and the representations then made were
25 followed up in 1933, and as a result of these repre-
26 sentations the district was created in 1934.

27 Now, to go on then to the second
28 question, why so many ---

29 MR. JACQUES:

30 Q. I am sorry, but would you know the



1 gist of the recommendations which were made, say, since
2 1913? What was the reason alleged by this Montreal
3 lawyer for the creation of the district?

4 A. I don't know that. I am sorry.

5 Q. You don't know? Would you know ---

6 A. I think it is the same kind of thing
7 as we have had very small districts where pilots --
8 where there has been one pilot and he wanted to have
9 a licence. I think the desire is to have a sort of
10 franchise you might say.

11 Q. Would you know what the reasons were,
12 or rather what reasons were alleged by the last group
13 who succeeded in obtaining the creation of the dis-
14 trict? You mentioned six members, pilots and
15 shipping companies, and what not.

16 A. They were just supporting the people
17 who were requesting it, but I haven't details, I am
18 sorry.

19 Q. Now, Question No. 2, when the district
20 was formed it is stated that some 216 licences were
21 issued. Why so many?

22 A. Well, when the district was created
23 a licence was issued to every man who had been acting
24 as a pilot or who had been piloting his own ship,
25 whether as master or mate, as I understand it. This
26 is why there were so many.

27 There was, of course, a fear on
28 the part of some people that with the formation of this
29 district it was going to prevent some people from
30 doing what they had been doing before. I assume that



1 one of the conditions -- or anyhow all these licences
2 were issued to all these people, and many years
3 afterwards this became an embarrassment to us. You
4 understand this was before my time?

5 Q. Oh, yes. Quite.

6 A. It was when I was on the lakes, but
7 before I came to the department.

8 MR. LALONDE: Is it true some
9 licences were issued even to cooks aboard ships?

10 THE WITNESS: I never heard that, Mr.
11 Lalonde.

12 MR. LANGLOIS: Not to cook the meals
13 though.

14 Q. Question No. 3 is quite a lengthy
15 question. Perhaps we will dispense with reading it
16 since everybody has a copy of the question. It refers
17 to the administration of the district up until the time
18 it was abolished.

19 A. Well, the district was administered
20 in the same way as other districts. Of course, some
21 people would say badly.

22 MR. LANGLOIS: Who would say that?

23 THE WITNESS: The problems or
24 difficulties as they arose were dealt with by dis-
25 cussion with the elected pilots' committees, and with
26 the Dominion Marine Association which represented
27 the owners of the vessels. There were very few
28 ocean vessels involved in those days until the few
29 years preceding the opening of the Seaway.

30 There was no compulsory payment of



1 dues, and there was no pooling of earnings for many
2 years. Each pilot collected his own fees from the
3 owner or the agent of the ship which he had piloted,
4 and there were no deductions, there being no pension
5 scheme.

6 Q. I see. The despatching, who did
7 the despatching?

8 A. The despatching in that district
9 was not done by the department until many years later.

10 THE CHAIRMAN: It was up to the
11 master concerned to get his pilot?

12 THE WITNESS: These men often had a
13 contract. They were employed by individual companies,
14 my lord, and these companies just called them when they
15 wanted them. It was a pretty steady job for these
16 men, and they had so much a trip.

17 MR. JACQUES: My lord, we have secured
18 copies of all the P.C's. applicable to that district
19 ever since its creation in 1934 right down to 1960,
20 and we might file these in a bundle as Exhibit No. --- ?

21 THE CHAIRMAN: As Exhibit 1392,
22 the same one you have filed for the creation of the
23 district. They can be all filed together.

24 MR. JACQUES: Yes, my lord, and it
25 might be described as Orders in Council applicable to
26 the district from 1934 to 1960. In 1934 a glance
27 at the bylaws shows that there was no despatching done
28 by the superintendent of pilots.

29 ---Addition to Exhibit No. 1392: Copies of Orders in
30 Council applicable to the District
of St. Lawrence-Kingston-Ottawa
from 1934 to 1960.



1 MR. JACQUES:

2 Q. Now the subquestion in Question No. 3,
3 you have dealt with compulsory payment of dues. We
4 have had evidence of stoppages of work in 1955 and 1957.

5 A. You do understand, Mr. Jacques --
6 no, this is all right about the compulsory payment of
7 dues. There never has been compulsory payment there.
8 Excuse me, go ahead.

9 Q. Yes. The subquestion refers to
10 stoppages of work in 1955 and 1957. In this connection
11 would you explain the back-to-work deadline issued by
12 the department in 1957?

13 A. I don't seem to have been able to
14 find that reference, Mr. Jacques. I have no note here
15 on it.

16 THE CHAIRMAN: You might as well skip
17 this one and come back later when he has found it.

18 MR. JACQUES:

19 Q. This is contained in the evidence of
20 Mr. Perusse, Volume 87A, at page 10814, where Mr.
21 Brisset referred to a newspaper item in the Montreal
22 Star on November 12th, and I quote:

23 "The pilots will vote today on
24 a telegram to be sent in reply to a
25 back-to-work deadline issued by the
26 Department of Transport. The statement
27 came in reply to a telegram from the
28 Deputy Minister of Transport Mr. J. R.
29 Baldwin ordering the men back to work
30 or face fines. The wire also told



1 the pilots if their work stoppage
2 extends beyond Wednesday the St.
3 Lawrence-Kingston-Ottawa District
4 may be abolished."

5 Would that be the general policy of the department
6 at that time to threaten the abolition of districts?

7 A. It was in that case.

8 Q. Therefore I take it then ---

9 A. The fact was that this district had
10 been formed for their protection and at their request,
11 and if they didn't want it, it could be abolished.

12 Q. That particular district was not
13 taken over by the Minister in the interest of naviga-
14 tion; solely in the interest of the pilots?

15 A. It was being navigated very success-
16 fully before the Minister took over.

17 Q. It was not strictly in the interests
18 of navigation, but it was, rather in the interests of
19 pilots?

20 A. You could say that it was the
21 interests of pilots if it was making them happy. It
22 was in the interests of navigation too.

23 Q. It could not have been a very, very
24 serious interest since a mere disagreement provoked
25 threats of abolishment of the district.

26 A. Disagreement, Mr. Jacques? A threaten-
27 ed strike.

28 THE CHAIRMAN: The department had
29 taken the same attitude in 1920 in British Columbia and
30 the district was abolished for nine years.



1 MR. JACQUES: Perhaps abolishment
2 of the district was in the interest of navigation in
3 order to keep peace in the family.

4 Q. Now, the next subquestion, complaints
5 of pilots ---

6 MR. LALONDE: Excuse me. In effect,
7 could not one say this back-to-work order was a kind
8 of sword of Damocles that the deputy minister put over
9 the heads of the pilots in order to get them back to work?

10 THE WITNESS: It might be called an
11 ultimatum, yes.

12 MR. LALONDE: Thank you.

13 MR. BRISET: Does the department
14 acknowledge the contribution of the Shipping Federation
15 in authorizing the despatching system in that district
16 during the years that preceded 1955 or 1957?

17 THE WITNESS: I am sure if you say
18 there was a contribution I would not deny it.

19 MR. JACQUES:

20 Q. This is rather a strong stand taken
21 by the department would you say to threaten the
22 abolishment of the district? Admittedly it is
23 with reason because there was a strike going on.
24 Is that correct?

25 A. Well, it was thought to be a strong
26 stand, yes.

27 Q. There were strikes in pilotage districts
28 after that, and it appears that a similar back-to-work
29 deadline was not given?

30 A. Well, the thing was -- the difference



1 was, Mr. Jacques, the situation in that district was
2 a little different from other districts down below
3 Montreal.

4 The employers of these pilots had
5 not been anxious to have any pilotage district. The
6 employers had been quite happy with the way in which
7 they were employing these men. They knew whether
8 they were competent or not. They didn't employ a
9 man who they were not sure was competent, and the thing
10 was that if this district had been abolished, then it
11 would have been between the shipowners who were lake
12 men, who were lake shipowners, and the pilots as to
13 whether or not they would have any pilots or not.

14 Q. According to you this is why a back-
15 to-work deadline was not issued in the case of the
16 stoppage of work on the St. Lawrence River, say, in
17 1962?

18 A. I don't think the Pilotage Authority
19 has the power to abolish the Montreal and Quebec
20 districts. I think it is in the Act ---

21 Q. You could do it indirectly, though?

22 A. We should have got your advice, Mr.
23 Jacques.

24 Q. Now, the next subquestion, complaints
25 of pilots with respect to difficulties with wheelmen?

26 A. On April 30th, 1959, a telegram
27 was received from the president of the Montreal-Kingston
28 pilots expressing concern about the position of the
29 pilots if a ship got into trouble because of the actions
30 of a wheelman who was unfamiliar with practice in the



1 canal. I have a copy of the telegram here which I
2 can file if you wish.

3 Q. Yes, please.

4 A. And of the departmental reply.

5 Q. Would you read that telegram first?

6 I think it has been read into the record already.

7 A. This was sent to Mr. Alan Cumyn by
8 Mr. Jean Guy Chartier, president of the Montreal-Kingston
9 pilots.

10 Q. No. You might read it into the
11 record.

12 A. The text is this ---

13 MR. LALONDE: What is the date?

14 THE WITNESS: The date is April 30th,
15 1959.

16 "Sir, piloting big ships without an
17 experienced wheelsman, Montreal-Kingston
18 District, is very dangerous and many
19 minor accidents have happened and many
20 major accidents could happen where
21 lives could be involved. Pilots urge
22 the Department of Transport to look into
23 this matter as soon as possible, and
24 until such a time as they have an
25 experienced wheelsman for the dis-
26 trict they demand to be exonerated
27 of all blame which could be caused
28 by inexperience or errors of such
29 inexperienced wheelsman."

30 And the reply on the same date was:



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1 "Re your tel pilots may be assured
2 that they will not be blamed for
3 casualties which are found to be
4 caused by errors of wheelmen."

5 Signed by Mr. Alan Cumyn, Director, Marine Regulations.
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1 MR. LALONDE: You didn't have in your
2 files other documents such as telegrams or letters with
3 similar complaints registered by local pilots over
4 those years?

5 THE WITNESS: There have been complaints
6 -- yes, this is so.

7 MR. LALONDE: So the letter you read
8 from is not the only complaint you ever had?

9 THE WITNESS: No.

10 MR. JACQUES: Q. We now come back
11 on this question that refers to exhibit 814, and we
12 haven't got it here.

13 A. Speaking on behalf of the pilots,
14 I can quite sympathize with them in this matter.
15 Having been on the lakes myself I know exactly what
16 they are up against. On a lakeship normally the
17 master himself used to take the wheel. Whether they
18 do that now I don't know.

19 THE CHAIRMAN: And the pilot, from
20 what we have heard.

21 THE WITNESS: Yes; the pilots used to
22 take the wheel, and with the position of the steering
23 wheel on the ocean ships there is not good visibility --
24 you can't see just where you are going; and the pilot
25 is up on the wing of the bridge, or at least not right
26 at the wheel position, and he doesn't always know what
27 the wheelsman is doing. He can give an order, but
28 a deep sea wheelsman can have the helm hard over with
29 a cement wall within a few yards of the ship, which
30 is rather nerve-wracking; and he is liable to ease the



1 wheel, as they call it before he should and this can
2 cause trouble.

3 MR. BRISSET: Ships are still going
4 through the Seaway.

5 THE WITNESS: Yes; and I think our
6 pilots are to be congratulated on that. This doesn't
7 imply that I am suggesting that we should have extra
8 wheelsmen.

9 THE CHAIRMAN: This is a reaction
10 with a change of procedure, a change in the size of
11 ships and the type of ships; it is a reaction from
12 the old procedure to the new one.

13 THE WITNESS: Yes; and a different
14 proposition altogether. A lakeship is built for
15 that purpose so that the man standing at the wheel is
16 able to see; he can see the wharf and he can see his
17 whole ship behind him usually, and it does make a
18 difference. It may not be quite as bad now as it used
19 to be with the old currents, but the man at the wheel
20 used to actually feel the ship in the current, and this
21 is why the master or the pilot used to take the wheel
22 themselves. But the pilot can't do that with an
23 ocean ship.

24 MR. JACQUES: Q. The next question
25 refers again to the civil service status offered to
26 pilots. What was the reason for the offer? Why
27 was that offer made?

28 A. Well, I think it can be said, My
29 Lord, that the difficulties that have become so evident
30



1 to the Commission owing to the lack of the employer-
2 employee relationship have been evident for some time,
3 and the Department has felt for a long time that if this
4 relationship could be established some of the
5 difficulties would be eliminated.

6 Q. Would you explain a little more
7 which difficulties would be done away with if the
8 pilots were to become employees of the government? --

9 THE CHAIRMAN: Of the government, or of
10 the Authority?

11 THE WITNESS: Well, bringing in the
12 employer-employee relationship with the government,
13 such as in the Great Lakes district now -- we are
14 having no difficulties except what are being drummed
15 up.

16 MR. LALONDE: We are getting propaganda
17 now.

18 MR. JACQUES: I don't think that is
19 an answer which is fair to the Department.

20 THE WITNESS: Well, I will put it this
21 way, that we believe that the pilots of the Great Lakes
22 district No. 2 who are on a salary basis have been
23 happy. They were certainly glad to have the job at
24 the beginning, and with our rectification of the
25 unfortunate situation where they were having to work
26 too much -- more than we had intended -- we think they
27 would still be happy.

28 Q. But wasn't the policy, in fact,
29 to try to bring the pilots under government employment
30 merely to exercise in -- I wouldn't say in a ruthless



1 way -- but in a more rapid manner and a more thorough
2 manner disciplinary measures?

3 A. No, not necessarily, Mr. Jacques,
4 no. There are more difficulties than disciplinary
5 matters.

6 Q. All right; which ones?

7 A. There are matters of vital interest
8 that a pilot has in the districts where they are not on
9 salary. There are details of the tariff, for instance,
10 as has been brought out in this courtroom today.

11 Q. But don't you think that you were
12 going from Charybdis to Scylla, and that in going from
13 negotiating with regard to tariff to negotiating with
14 regard to salary you would still have the same problem.

15 A. No, it wouldn't be the same problem.
16 The matter of having negotiations with the pilots was
17 so that they would have a good salary; but that didn't
18 mean that there would be the perennial representation
19 to jack up a little tariff here and then, next month,
20 jack up a little tariff there, which has been causing
21 all the trouble for so many years.

22 Q. Well, I will accept your answer,
23 but I think it is a lot of wishful thinking on the part
24 of the Department.

25 A. Perhaps it is; we can only try.

26 MR. LALONDE: You said the pilots were
27 glad to have the job at the beginning. Would you make
28 the general statement that it is better to have a job
29 than no job at all?

30 THE WITNESS: Oh, yes; but I quite agree



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1 with you that the men at that time were rather
2 apprehensive about the future.

3 MR. LALONDE: And is it correct to
4 state that a person would be glad to have a job rather
5 than have no job at all?

6 THE WITNESS: He would be.

7 MR. LALONDE: And isn't it a fact that
8 at that time a lot of the regular masters -- the sailing
9 masters -- were facing a pretty gloomy future in view
10 of the policy established by the Department in the Great
11 Lakes?

12 THE WITNESS: The policy?

13 MR. LALONDE: They didn't know what to
14 expect or what was their future so far as employment
15 was concerned?

16 THE WITNESS: Which policy?

17 MR. LALONDE: To do away with sailing
18 masters and have pilots in the district and Welland
19 Canal only?

20 THE WITNESS: This was not exactly the
21 policy of the government.

22 MR. BRISSET: We are dealing with the
23 civil service status in the Kingston district?

24 MR. LALONDE: The witness's answer,
25 with respect to district 2 -- he said...

26 THE WITNESS: I think it still stands,
27 that, whatever the reason was, they were glad to have
28 the job. There will be evidence later as to how many
29 wanted to have the job.

30



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1 MR. LALONDE: Rather than no job at
2 all?

3 THE WITNESS: Possibly.

4 MR. LALONDE: To come back to St.
5 Lawrence-Kingston-Ottawa, do you remember the cir-
6 cumstances of the offer to the pilots in St. Lawrence-
7 Kingston-Ottawa?

8 THE WITNESS: I can give the details of
9 this.

10 MR. LALONDE: Do you remember, in
11 particular, first, that the pilots received an offer
12 by getting a call to Ottawa? Is that the way it started
13 -- they were sent a telegram to show up in Ottawa?

14 THE WITNESS: There is reference to
15 Exhibit 820. Could I see this exhibit, because I can't
16 recall the circumstances at the moment. I can't recall
17 just how that meeting was called, Mr. Lalonde; but I
18 won't deny what you say.

19 MR. LALONDE: What year was that?

20 THE WITNESS: 1958; the meeting was
21 on January 8th.

22 MR. LALONDE: Since I wasn't there I
23 am not in a position to give evidence on that.

24 THE CHAIRMAN: We will adjourn until
25 tomorrow morning at ten o'clock.

26
27 --- Whereupon the hearing was adjourned at 5.00 p.m.
28
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